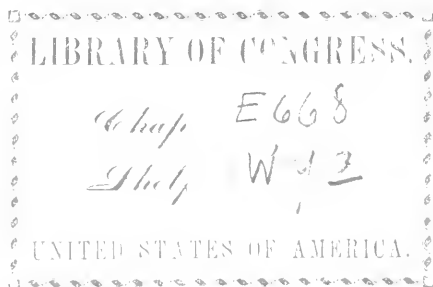




E

668





LIBRARY OF CONGRESS.

Chap. E668

Shelf W 13

UNITED STATES OF AMERICA.



SPEECH

OF

HON. THOMAS WILLIAMS,

OF PENNSYLVANIA,

ON

THE RECONSTRUCTION OF THE UNION;

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 10, 1866.

WASHINGTON:
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.
1866.

E 668
.W72

RECONSTRUCTION.

The House resumed the consideration of the President's message, as in Committee of the Whole on the state of the Union.

Mr. WILLIAMS said:

Mr. SPEAKER: Nearly two years ago, and while the war was flagrant, I felt it my duty as a member of this body to look into the question of the relations that had been produced by it, the privileges that had been forfeited on the one hand, and the rights and powers that had been acquired on the other, with a view to the readjustment of the whole machine by the restoration of those parts that had been sundered from it by the disturbance. With some—the infirm of faith—the inquiry was thought to be premature. This, however, was not the judgment of the last Congress. It passed a bill which did not meet the approval of the Executive, because it interfered with a plan of his own that had not proved acceptable to it, and the question was adjourned without advice from that body, and in such a way as to leave the field open for experiments with which it was not in a condition to interfere.

The people are here again in the persons of their representatives, who are the law-making power of the nation, not on invitation, but by constitutional mandate, to inquire what has been attempted, and to decide for themselves what shall be done with the Territories that have been conquered by their arms. It is agreed on all hands that they shall be eventually readmitted as members of the common family. It is not pretended by anybody that they can resume their places here of their own mere volition, and without any consent of ours. It is not insisted, I think, by any well-read statesman, that our power to exclude depends only on our right to determine upon the qualifications of our own members. It is confessed that there is an organic lesion that forbids their return, and can only be supplied by a new organization which no act of spontaneous generation can produce. It will scarcely be contended now, I suppose,

as it was by an eccentric committee of the last House, that our victory was crowned only with a lapse of sovereignty, or that the jurisdiction to restore a lost member is anywhere but here. I shall be excused, of course, for returning to this subject under circumstances that not only invite, but compel its discussion. If it was not proper for Congress to prescribe in advance the law that was to govern this question in the last resort, at all events, while other agencies, mistaking perhaps its backwardness for an abdication of its rightful powers, were industriously employed in forestalling its own action, it is no longer possible, in view of what has occurred since the last adjournment, and of the forces that have been mustered to overbear our deliberations here, to avoid a conflict that has been so long foreshadowed.

To determine this great question, the greatest by far that has ever challenged the deliberations of an American Congress, it is important to inquire, in the first place, what is the posture of these Territories, as it has been affected by the progress and results of the war, which has just been determined by their enforced submission to the authority of the nation?

So far, at least, as armed resistance is concerned, it may be assumed that the war is at an end. The deluded communities that have so wantonly insulted this Government and defied its power, now lie conquered, and helpless, and in social ruin at our feet, deprived, by their own act—I will not say, in the language of the proclamations that have been addressed to them, of "all civil government whatever"—but certainly of all the organism that was essential to the maintenance of their old relations to the Union. To claim any more than this, would be to assume a condition of anarchy, where there is still a "supreme law" under the Constitution, and where, even in the absence of such a rule, the territory reclaimed must necessarily pass under the jurisdiction and law of the conqueror. Taking it, however, to be true, as stated, then,

by necessary inference, the civil law of the Union is dethroned, and its military power is all that remains to hold these States in subjection to our authority. In point of fact, we do so hold them now—except so far as they have been surrendered to the enemy—without other law than our own sovereign will. The supreme executive functionary of this nation, who, by virtue of his office, is the Commander-in-Chief of its armies, feeling that they were not in a condition to be trusted to themselves, instead of sheathing the sword, convoking the representatives of the people, advising them that these provinces were tranquillized, and submitting to them, as the law-making power, the grave question, what is to be done with them? has preferred to await the usual period of our assemblage, and appointed his lieutenants and proconsuls to govern them in the meanwhile, with the aid of armies, and the terrors of that arbitrary code which is known by the name of martial law. We are here now, however, and it becomes our first duty to relieve that officer from this unusual and inappropriate task, and to furnish some security to the conquered people by the substitution of another and a gentler rule.

I would not be understood, however, as questioning the exercise of a sovereignty like this, so long as it was necessitated by the absence of a legislative power, since that is but a logical consequence of the position previously maintained by me on this floor, that these States had ceased to be members of the Union, and passed into the condition of Territories. If they continued to be States, within the meaning of the Constitution, the moment the resistance ceased it would have been the duty of the Executive to withdraw the armies, and they would have at once resumed their *status quo ante*, with all their constitutional rights and privileges unimpaired. If they were still States, all that has been done since, even though the power of Congress had been invoked to authorize it, would have been the clearest of usurpations. Taking them, however, to have been "deprived," in the language of the proclamations, "of all civil government whatever," it was but a legitimate inference of the Executive, that they had not only forfeited their elective franchise, and lost their property in slaves, but placed themselves in a condition where they were no longer entitled even to the benefit of the constitutional guaranty without a new birth. The idea of any State, except that of nature, without any "civil government whatever," is as incomprehensible to me as that of a State being in the Union, or indeed anywhere, that is admitted to have no existence whatever.

No more would I be inclined to quarrel with those who, starting from these premises, are still disposed to insist that these States were never out. The difference is perhaps only the result of a want of precision in the use of terms, or a diversity of opinion in regard to their meaning. Mr. Burke has furnished us with a distinc-

tion here that meets the case precisely. "The word State," he remarks in his letter to Sir Hercules Langrishe, on the subject of the extension of the elective franchise to the Irish Catholics, "is one of much ambiguity. Sometimes it is used to signify the whole commonwealth, comprehending all its orders, with the several privileges belonging to each. Sometimes it signifies only the higher, and ruling part of the commonwealth, which is commonly called the government." In the former of these senses, it is not to be doubted that these communities still exist, and are *in* the Union, or *of* the Union, because their territories belong to it, and their people owe it allegiance. In the latter, however—and that is the one that connects them with our political system, as the proclamations concede—they are admitted by the same proclamations to have been destroyed, and can, of course, be *nowhere*. And this will be found to reconcile the apparent contradiction between the language of the proclamations, and the accordant practice of the Government on the one hand, and the theory of those who are supposed to speak its opinions, and infer from some unhappy phraseology of the former, as well as from the more recent utterances of the message, the repugnant idea that there was a constitution of government left existing amid the general wreck, in a case where it had been previously declared in terms that there was "no civil government whatever."

There can be no real dispute, therefore, between the Executive and his northern friends as to the posture of these dilapidated members. Their entire treatment by him shows that they have only been regarded practically as conquered provinces. I deprecate, however, the encouragement that has been given to the enemies of the Government, by the promulgation of the fallacious doctrine, which has found so ready a currency among the disaffected of the North, and has proved so welcome to the unrepentant rebels of the South, that these disorganized States have never ceased to be members of the Federal Union. That is the present theory of every traitor, North or South, who has been insisting for four long years of war on the *right*, as well as the *fact* of secession. With strong assurances of pardon, they can well afford to risk the consequences of treason, by repudiating the belligerency upon which they have heretofore claimed immunity for their crime, if it will restore them to their original rights, and serve them as an argument against the legality of the proclamation that has stripped them of their property in slaves. Grant them the postulate that all their acts of secession were not a fact, but a nullity—that the crime which they committed was impossible, because it was forbidden—and if they cannot invalidate the war, and the debt that was made by it, they will at least stagger your courts with the question, by what authority under the Constitution, you have presumed to deprive the people of a State *within* the Union, by proclamation and without judg-

ment of law, of any of their franchises or property. They will admit it now as an incident of the war—if there was a war, or could be, where there was no secession, and therefore no belligerent—so far as the thing was consummated by an actual seizure, just as they are now ready to confess that the right of secession has been disproved by the logic of the sword—which means only by their present inability to maintain it by that argument—while their northern brethren still assert the very heresy upon which it rests. But once in, they will take you at your word, and insist that all your intermediate acts were nullities as well as theirs.

Agreeing, however, as we all do, that these States, without any local law or governments of their own, have passed under the law of the conqueror—and the attempt to reorganize them by Federal authority is an admission of it—the next question, into the discussion of which we are now prematurely hurried, is not how they are to be governed until they shall be in a condition to return—because that seems to have been assumed to be no business of ours—but whether that condition has been reached, and what are to be the agencies and terms, through and upon which this consummation is to be effected.

If there be any one question that more than another falls within the exclusive cognizance of the people of the loyal States, and deserves and demands the thoughtful consideration of their Representatives, it is just this. Eleven of the columnar supports of our political edifice are now lying around us, like the giant columns of Tadmor and Palmyra, with shaft, and capital, and architrave alike shattered by the mighty convulsion that has laid them all in ruins. Where is the hand that is to lift these columns to their place? Who is it that shall reunite the dis severed fragments, and wreath the ivy over the towers that have been rent from turret to foundation? What are to be the process and the conditions, on which these great criminals, who, “like the base Judean,” have wantonly flung away “a pearl richer than all their tribe,” are to be readmitted into the enjoyment of the privileges they have rejected and despised, and received again into the fellowship of the men they hated, and the confidence and honors of the Government they have only failed to destroy, because it has proved too strong even for a degree of treachery that has no parallel in history? How far are these baffled paricides to be trusted again, now that they are vanquished, and without power of resistance, after such an experience, after so bloody a lesson as they have taught us—and what are the guards that will be required to prevent a recurrence of any of the evils from which we have just escaped? All these are problems which, however simple they may have been considered in some quarters, might well embarrass the profoundest of our statesmen, and which all the collective wisdom of the nation will not be more than sufficient to solve. The war itself, stupendous as it has proved, was nothing in the compari-

son. There never was a reasonable doubt as to the suppression of the rebellion, provided the loyal States should prove true to themselves. It was a purely arithmetical problem, of which the elements were within the reach of everybody. If all the slave States had been united, eighteen millions of northern freemen, with the credit, and resources, and prestige of this great Government on their side, and man for man the peers of their enemy, were sure to subdue less than one half their number, with four millions of a disaffected population in their midst, as soon as they were allowed to strike at the heart of the rebellion, and it came to be understood that it was to be a *war à l'outrance*. The only real danger was in the prospective and inevitable process of reconstruction. It was a question only whether there would be wisdom enough in the councils of the nation to profit by the heroism of our soldiers in the field, or folly enough to throw away the fruits of the many sacrifices that this long and bloody war had cost us, by ignoring our past experience, and rushing with headlong precipitation, and immature resolve, into measures of restoration, resting on no system or principle, and reserving no guarantees for the future. We have just reached that point. The rebellion, so far, at all events, as armed resistance is concerned, is over. We still tread, however, on the ashes of an unextinguished volcano—“*supposito cinere doloso*.” “An earthquake’s spoils are sepulchered below.” The ground still heaves and trembles; the fiery flood still surges and pulsates beneath our feet; and already, almost before the thunders of our artillery have rolled into the distance, and while the smoke of battle is still upon the plain—without a moment’s pause to survey the wide field of ruin, and reach forward, if possible, with telescopic vision into all the bearings, and all the remotest possible consequences of the act which we are called upon to do—a childish impatience is urging us upon a path where angels might fear to tread, and expecting us to crowd the structure of an empire—the ordinary work of centuries—into the deliberations of an hour.

Upon considerations such as these, I would have preferred to wait until the two Houses, acting in their legislative capacities, and in the spirit of statesmen who are charged with the interests of half a continent, had matured some plan which would secure uniformity in our proceedings here, while it furnished to the whole country—to the loyal people of the returning States, as well as to ourselves—all the safeguards which the circumstances of the case required. My judgment is that you can proceed lawfully in no other way. If restoration is the object; if these State governments have been destroyed and must be organized anew; if the people of these States must be enabled to restore them to their old relations, and put them in a way to entitle them to claim the benefits of the constitutional guaranty through the agency of the Federal authorities; if they must be readmitted;

if the guaranty is to be fulfilled—all which things are conceded by the proclamations—then it is as clear as sunlight that nothing short of an act of Congress—a law in all its constitutional forms—can accomplish this work. But I am in no hurry even as to this. *Festina lente* is the motto for a statesman. States are of slow growth. A century is but a day in the life of a nation. A great poet has said—

"A thousand years scarce serve to form a State;
An hour may lay it in the dust."

To heal the wounds inflicted by a four years' civil war is not the work of a day. If we would do it well, we must imitate the processes of nature, beginning at the bottom and working slowly to the surface. Sound statesmanship would declare in favor of this course in any case. It would tolerate no other where there is so little excuse for precipitancy, where there is no real pressure except that which is invited by ourselves, and where a mistake once made, however disastrous in its effects, would be absolutely irremediable. That privilege is, however, denied to us. Though we had declined to court this issue by going out to meet it, it has come to seek us here, and if we have not been allowed to provide by law, in advance of the occasion, a rule which shall govern all cases, we must at least meet it in the more questionable shape in which it presents itself, though under disadvantages not unlike those we had to encounter with the same parties at the beginning of the war.

The present Executive of the nation, acting upon the prevalent idea that it is the duty of the Government to take the initiative step in the process of restoration, instead of awaiting any spontaneous action, or the expression of any desire on the part of the people of the rebel States to return to their original relations in the Union—which could be only properly conveyed by an appeal to Congress—has, in the recess of this body, and on the cessation of active hostilities in these States, concluded it to be his duty to direct their organization, along with the process by which it is to be effected, in order to entitle them to the benefit of the constitutional guaranty, and has accordingly indicated his plan in a series of proclamations, which are all of the like tenor, though differing in some respects from the plan of his predecessor. The presumption was that they would in all instances conform to the law that he had prescribed for them. Having so complied, they would naturally expect that their immediate lawgiver, although then understood to admit the ultimate decision to rest with Congress alone, would recommend their admission, and enforce that recommendation with all the influence that he could lawfully exert. It becomes important, therefore, to look into that process, and ascertain whether it was consistent with the spirit of our institutions; whether it rested on any correct view of the relations with which it had to deal; and how far it was calculated to secure the object for which it was professedly contrived.

A careful analysis of these instruments will be found to result in the development of the following leading propositions:

1. They admit the continuing existence of a state of war, and profess to rest on the two-fold authority of the President, as Commander-in-Chief of the Army and Navy of the United States, as well as supreme civil executive magistrate of the Union.

2. They declare the people of these States to have been deprived by their own acts of all civil government whatever.

3. They confess the necessity of a new organization, for the purpose of restoring their constitutional relations with the Federal Government, and presenting such form of government as will entitle them to the benefit of its guaranties, and therein admit that they are not so entitled in their present condition.

4. They concede that the new organization must receive its impulse and direction from without, and be assisted by the coöperative action of the Federal authorities.

5. Confessing, however, that these States are not now entitled to the benefit of the constitutional guaranty, they assert, in effect, that under it, the Federal Government is bound to place them in a position which will enable them to *claim* it, and assume that the fulfillment of that guaranty is a purely executive function, to be performed in such a way as the judgment of the President may determine.

6. They direct, accordingly, the assemblage of conventions at the earliest practicable day, and define and ascertain the qualifications of the voters.

7. In fixing those qualifications they adopt a standard that is entirely new, by limiting the franchise, not to the white men generally, but to such only of the people who were invested with that prerogative under the government that is admitted to have been destroyed, as are loyal, and will swear to support, not the Constitution only, but all laws and proclamations during the rebellion having reference to the emancipation of slaves.

8. Admitting, moreover, that these States are without any civil government whatever, and that they must necessarily organize anew, they insist that it shall be done upon the partial recognition of a government that has been destroyed, by a process, not of organization at all, but of amendment and alteration only, that shall work simply on that part of the defunct corpus which was left untouched by the ordinances of secession, and whose continued existence would involve a denial of the right of Federal interference, and is in direct contradiction of the premises on which these proclamations rest.

9. They look, moreover, to the employment of the military arm in the execution and enforcement of the scheme of restoration which they involve.

With all proper respect for the Executive, I am constrained to say that there are evidences

here, either that these proclamations could not have been considered or digested with the care which so great an occasion would seem to have demanded, or that the case might not unprofitably have been transferred from the other end of the Avenue, to its appropriate forum in the great council of the nation, assembled here to deliberate upon its interests, and vested exclusively with the high power of legislating in regard to its Territories, of admitting new States, and of fulfilling all constitutional guarantees. My reasons for so thinking will, however, be better understood from the remarks I have to offer on the several propositions which I have extracted from them.

It may be safely affirmed, I think, that the existence of a state of war, whether that war be openly aggressive and demonstrative in its character, or exhibiting itself only in sullen discontent, or disaffection, or hatred of the Government, such as to necessitate the presence of a military force to compel obedience to the national authority, or to prevent a seizure of the local power, is utterly irreconcilable with the idea of such an organization, as the genius of our institutions, and the very texture of our Government would demand. Without the spontaneous and unrestrained volition of the majority of the people, I cannot conceive the idea of the existence, or constitution of a republican State. A form of government erected by or for a minority of the people, and depending upon armies for its existence or support, would be the merest mockery of a republic, and could not be recognized here consistently with the terms of the constitutional guaranty. It is a self-evident proposition that so long as it requires an army, or a Federal legate—whether called by the name of provisional governor, lieutenant, commandant, proconsul, or pretorian prefect—to govern it, it is not in a condition to perform that task itself; and the very appointment, which would be otherwise unlawful, is a confession of it. While the Executive holds the Territory within his grasp as the Commander-in-Chief of our armies, he holds it under military law—which is the only law he can administer—and by a power that is absolute; and it is idle to talk about the restoration of the civil authority by the voluntary act of the people themselves, because he is essentially supreme. The power he wields is above the law, and silences the law. There can be no two codes—no divided *imperium* here. The man who so rules is essentially a dictator; and it makes no difference in principle whether he prescribes the law for a good purpose, or a bad one. It is impossible that the people should act freely under such a domination. It is only when it ceases that they can truly be regarded as their own masters. The jealousy of our fathers has guarded against the very presence of the military on the election ground, even where the civil law reigned, and the subordination of the military was unquestioned. Where it knows no law, however, except its own will, and stands by to direct and

execute that will, the acts done, which would be clearly invalidated thereby in the States, are its own. If it assembles conventions and names the voters, they are its creatures. If it elects Congressmen, they represent it only. If the product of its imperial rescript is a republic in form, it is a republic engendered from the decomposing remains of the dead sovereignty, under the fierce embrace of the military power—a republic hatched into life by the spirit of despotism brooding over a chaos of ruin. To say that a monstrous birth like this, tearing its way through the entrails of the State—a delivery by the sword—assisted by the matronly offices of a provisional governor, and graced by a more than royal attendance in the high functionaries of State, “the military commandant of the department, and all officers and persons in the military and naval service,” who are expressly summoned to be present on the august occasion—is the legitimate offspring of a free people, or has any of the features of a republic within the meaning of the Constitution, is to draw largely on the imagination. Freedom recoils aghast at such an apparition, and shrieks out “death!” Nor will it be sufficient to assert that these sword-bearers were not actually present in the body, and that therefore no control was exercised over these provincial councils by their creator and lawgiver. We know that when the fiat went forth publicly to the hesitating synod of North Carolina, that the debt of the rebellion must be repudiated, every knee went down in humble submission to the orders of the Commander-in-Chief. We know, too, from the very recent message of the rebel general and Governor of Mississippi, (Humphreys,) who was pardoned specially to qualify him for the place, that it was “under the pressure of Federal bayonets” that the people of that State “have abolished the institution of slavery;” and it is not uncharitable to infer that the members of all those bodies knew precisely how much would be expected of them, and were prepared to do the will of the Executive, even though it had extended to suffrage for the black man. Disguise it as we may, these so-called constitutions of government are but articles of capitulation after the fact; treaties between that officer, dealing with these questions as an absolute sovereign, and the chiefs of the rebellion; terms dictated by the President as a conqueror, in accordance with his own individual and imperial will; agreements reluctantly conceded by them, as the condition not only of pardon, but of restoration to power, but almost invariably repudiated by their followers, in the refusal to ratify them by sending men here who were qualified under the law of Congress to take their places amongst us. That they are so considered, even by themselves, is shown by the recent correspondence between the high contracting powers, represented by our Minister of *Foreign Relations* on the one hand and Governor Orr of South Carolina on the other, in which it is declared by the latter that the State

convention, which he admits to be a revolutionary body, had been dissolved "after having done all that the President requested to be done." It is shown, too, more strongly, in the letter of the rebel General Hampton to the people of South Carolina, declining to be a candidate for Governor, on the ground that it might embarrass the Executive in his benevolent designs in favor of the South. Though not approving all that was conceded by the convention, he recommends their acquiescence in what he treats as the demands of the conqueror, on the ground of necessity, and for the special reason that the President "had exhibited a strong disposition not only to protect the South from the radicalism of the North, but to re-instate them in their civil and political rights." "It may be assumed," he adds, "that when the forms of government are restored, and freedom of speech allowed to us, your late convention will be subjected to harsh criticism, and its action impugned. Should such unhappily be the case, remember that you, the people of South Carolina, accepted the convention as *part and parcel of the terms of your surrender*. The President had no shadow of authority, I admit, under the Constitution of the United States to order a convention in this or any other State; but as a conqueror he had the right to offer, if not to dictate, terms. The terms offered by him you have accepted. I do not myself fully concur in all the measures adopted by the convention, but I shall cheerfully acquiesce in the action it took to carry out faithfully the terms agreed on. Entertaining these views, I think it our duty to sustain the President of the United States so long as he manifests a disposition to restore all our rights as a sovereign State. Above all, let us stand by our State. Her record is honorable, her escutcheon untarnished." When a man like Hampton speaks of "the radicalism of the North," we know that he intends the Union party of the free States, who favored the prosecution of the war and elected the President himself, and the men whom they have sent here to declare their will; and it is on the disposition of the President to protect them from his own friends in the country, and in these halls—the feeling that they could make a better bargain with him, and were safer in his hands than in those of the people and their Congress—that, without one word in favor of the Union, but with an earnest invocation to the people to stand, above all things, by their own *honorable and untarnished* State, he urges them to support, not the Union, but the President, and him only "so long as he manifests a disposition to restore all their rights as a sovereign State," including, of course, the transcendent and inalienable right of secession. And the Executive responds to this presentation of the case, by informing us in his late message that we have nothing to do with the terms of settlement, while the gentleman from New York, [Mr. RAYMOND,] who is supposed to reflect his opinions, is candid enough to put his vindication of

the special requirements of that functionary on the same grounds, and in language almost identical with that of the traitor Hampton. It is a waste of time, however, to labor a point like this. If the orders of the Commanding General, as enunciated through the proclamations themselves, were in point of fact obeyed, it is sufficient for the purposes of this argument. To deny his control over the creatures of his own will, because his subordinates did not stand over their deliberations with a drawn sword, would be the merest of subterfuges. As well might it be said that the Maker of all things, who launched the circumambient orbs through the immensity of space, and prescribed the law of gravitation for their government, was exercising no control, because He was not on sleepless watch at the center of the system, and telegraphing his special orders to Neptune and Uranus, by way of keeping them on the track as they sped their unerring way through the mazy labyrinth of the stellar worlds.

It will be urged, however, as it has been, that this was a measure of peace; an instrumentality essential to the tranquillization of those States; a part of the process for the restoration of order that must precede the withdrawal of the national authority, and would enable the loyal people there to dispense with the further presence of its armies. The answer is, that if it was intended to place the reins in the hands of the loyal minority of white men, while it confesses a condition of things where a republic is impracticable, and an election would be an absurdity, it could insure no peace and no permanent ascendancy to that element, without continued protection, because it required a military power to inaugurate it—just as is now admitted by Governor Brownlow to be the case in Tennessee; and if it was intended merely to restore the disloyal majority who governed before the rebellion, and hurried these States into it, then it was unnecessary. The idea is, in plain English, if not to make them our masters, at least to free them from our authority in the first place, in the *hope* that it will secure peace and submission in the future. I cannot consent to any such arrangement. I do not comprehend the value of that tranquillity which is only to be purchased by the abdication of our power, whether it be by the withdrawal of our troops, the restoration to the enemy of the arms that he was compelled to lay down on the last of his battle-fields, or the invitation—I should rather say command—to him to share our counsels in the adjustment of the results and the responsibilities of the war. If this be peace, it might have been secured at any time, with only the waiver of our right to insist that they shall sit down on the judgment seat, and divide the empire with us. It may be secured now by allowing them to resume their power and places here, upon the cheap consideration of a temporary acknowledgment that the negro is no longer an article of merchandise, because all their chances of success in this rebellion now depend on a

change of weapons, and the retransfer of the theater of war to the arena where it began. I say in this rebellion, because I am not sanguine enough to consider it at an end—as a very recent opinion of the Attorney General transmitted by the President, admits it is not. There are those, I know, who cannot comprehend a state of war, unless it comes home to their grosser senses in the rude shock of battalions and the groans of the wounded and the dying, and think, therefore, when the standard drops from the nerveless grasp, that this is peace. It is to form a very inadequate conception of a kind of arbitrament that depends as much on skillful tactics as on hard knocks. Resistance does not always cease when its arms are stricken from its hands. The victory is not always to the strong. It is as often the guerdon of the wise. True, we have conquered these people in battle, but what of that? No man was ever converted from an enemy into a friend by the summary logic of shot and shell.

"Who overcomes,
By force, hath overcome but half his foe."

The demoniac spirit that animated this rebellion—the same that mutilated and starved and butchered our martyred heroes, that inoculated the veins, and rotted off the strong arm of the northern warrior with the deadly venom of the azar-house, that baled the yellow fever as merchandise for this capital, and that ended by assassinating our President—still lives, unrepentant, unsubdued, ferocious, and devilish as ever. The battle still rages, as it did in these halls long before the outbreak of the rebellion, though under a new phase.

"What though the field be lost?

All is not lost."

If arms have failed, there are other weapons, rejected by the South in its blind and unreasoning arrogance, which have proved in other times more potent in its hands than the puny word that has just been shattered like a pot-herd in its collision with the iron muscle of the newly laboring man of the free States. A bloody experience has taught them their mistake in crossing swords with the soldiers of the North instead of fighting the battle in the Union, and relying on the folly of its statesmen, and the superior address that harnessed its fierce democracy to their triumphal car, and made them the masters of the nation until the period of their revolt. Harled to the earth like their great prototypes in crime, how natural to find the like consolation in the reflection:

Henceforth their might we know, and know our own."

So as not either to provoke, or dread
New war provoked; our better part remains
To work in close design, by fraud or guile,
What force effected not."

But this is not the peace that we have been endeavoring to secure. This is not victory, but defeat—just such defeat as that which follows the astounding paradox that our supposed triumph on the Appomattox, that made every heart leap with joy, has only purged the guilt

of our enemies and reinstated them here with no right impaired, to "beard us in our hall," and "push us from our stools." There is nothing, therefore, in the argument to drive us into such an inversion of the natural and logical order as would be involved in the imposition of State governments by the military arm, any more than there is to hurry us into a premature and ill-adjusted scheme of restoration, when there is abundant leisure to arrange our plans, and a false step would be irrevocable. I want a real peace before reorganization and readmission here. Invert the order, and we shall have no peace. It will only amount, as I have before hinted, to a change of weapons, and a retransfer of the seat of war to these Chambers, whence they went out four years ago to try the bloody issue that has been determined against them, just as they had before gone out in couples to seek the blood of some northern Representative.

And now, as to the admission that the people of the seceding States have been deprived of all civil government whatever.

During the last Congress, as I have already remarked, I took some pains to show that these States were, by construction of law as well as in point of fact, outside of the Union, because it was apparent that the whole question of our power to deal with them in such a way as to realize the legitimate results of the war, and exact the necessary securities for our future peace, must depend on the relation in which the war had left them. The phraseology, though sufficiently precise, was not perhaps as well chosen as it might have been, to exclude the idea either that they were out rightfully as States, or out in point of fact territorially. The "*rari nantes*," the few citizens of those States who, though outlawed by the belligerent relation recognized by our courts, as well as by the whole conduct of the war, and positively established by our legislation here, still remained "faithful among the faithless" would naturally protest against a form of expression that seemed to shut them out from the relation of citizens, and to give them the character of alien enemies; and it is perhaps, therefore, no great matter of surprise that the doctrine should have found so little favor in high places. I do not care to re-argue that question now, because it is perhaps not material. Taking the word State as contradistinguished from that of Government—for which there is unquestionably an example and a warrant in the language of the constitutional clause of guaranty—to mean, as it has been defined by so great an authority as Mr. Burke, "the commonwealth at large, with all its order," and all the rights belonging to each," and not "the ruling or governing power," it may be admitted without damage to the argument that they are still in. In that aspect of the case it must signify the territory, or the people, whether black or white, loyal or disloyal, or both. It cannot be the territory only, because it would then continue to be a State, although deprived

of its inhabitants as well as of its government, in which case it was never pretended that it was out. It cannot mean the people only, because that would make them a State, though all disclaiming their allegiance, or all alien enemies, and owing none except such as was qualified, and temporary, and purely domiciliary. In this sense it is a compound idea, of which one of the elements is necessarily a loyal people, and a perception of which is discernible in the fact, that under the plan of the proclamations the voters are to be confined to the loyal, or at least that portion of them which has the accidental advantage of having straighter hair or somewhat whiter skins than the residue.

It is enough for my purpose, however, that their political organizations, through which only they can maintain their appropriate relations to our governmental system, have been—as it is admitted they are—entirely destroyed; a point which could not be well contested in view of the common-law rules that govern in cases of public or municipal, as of merely private corporations. The proclamations go further in affirming that they have been “deprived of all civil government whatever,” which would imply a state of anarchy, and ignore alike the law of conquest, and “the supreme law” under the Constitution, and thus extrude them from the Union by a strict logical necessity. By this, however, the President intends, no doubt, the local governments alone. He cannot affirm a condition of anarchy, as this would be, so long as he maintains that they are still in the Union and subject to its laws, or in even asserting, as he does by the proclamations themselves, the continuing jurisdiction and authority of the national Government over them. Without any government whatever there can be no social state except that of nature. It is as impossible to conceive the existence of a civil or political State without an organism, as it would be that of an animal or vegetable body in like predicament. Stripped, however, of all the political organizations that held them together as members of this Union, they must of necessity have lapsed into a condition where everything was lost except their territorial relations and identity. In this condition, however, of local dissolution, it is admitted on all hands that they are without powers of self-resurrection; that without governments themselves they must receive their impulse from without—from their only remaining sovereign; and that these dry bones—these festering, decomposing elements—must at least be breathed upon in order that they may live; and therefore it is that the Executive Magistrate, in the exercise of what he conceives to be his duty, undertakes to impart the required movement by preparing and adjusting the whole machinery, setting it in motion with his own hand, and even prescribing the law by which that motion was to be governed. Whether these States are in or out, is no longer a question, when the rupture of their connections, and their own incapacity to restore them without the direction of the ultimate sovereign, are

admitted elements in the case. All that remains is to decide where this transcendent power is lodged, how it is to be exercised, and who it is that is to speak this chaos into order, and to recreate from this admitted anarchy, the future organism that is to claim its place in our system.

The proclamations assume that this high and imperial function is a purely executive one, and that on the ground of the constitutional obligation on the part of the United States to guaranty to every State in this Union a republican form of government, and the duty of the President to see that the laws are faithfully executed. It is only on the hypothesis either that this officer is—not in the modest language of Louis XIV, the State—but the United States, or that this executory agreement is in the nature of a law, which may be enforced by the instrumentality of the sword, and without the exercise of any discretion on the part of its minister, that the case can be claimed to fall within the province of the executive department. The former of these views, which seems to find support in the argument of the gentleman from New York. I shall not trouble myself to answer. If the latter were true, and the duty itself a purely ministerial one, the claim would be unquestionable. It is so far from being true, however, that it would have been impossible even for Congress itself to provide in advance by any general enactment, for the many different cases that might arise to demand its fulfillment. They have not even yet decided what is to be considered a republican form of government, within the meaning of the clause, or how it is to be erected in case of the overthrow of any of the existing State governments. They have endeavored, it is true, to provide for these cases, but have been met by the argument that it would be time enough to cook their hare when it was caught, or the objection that the Executive had a better “plan” than their own, which was in itself a confession that it was a matter of doubt and discretion, and anything but the performance of a ministerial duty. That plan, like the present one, involved no less a task than the reconstruction of a State from its very foundations, and the declaration of the law that was to govern in the prosecution of that work. In the former case, the power was conferred on a title of the voters who might take the oath of allegiance, and forswear the institution of slavery. In the latter, it is confined to the loyal men who had voted before, without reference to their numbers, and without any definition of the term, although it was clear that there was scarcely a loyal man in those States except those who were excluded. But will anybody say that the proclamation of the fundamental law of a State is an executive function? If there be any higher act of sovereignty than that which founds, or reconstructs a State, and gives or denies the elective franchise to any of its citizens, I do not know what it is. The man who makes the elector makes the laws and the magistrates, and is practically

in the enjoyment of a dictatorial power. There are occasions, in the extremity of a State, when such a power may be necessary for its safety. Nobody has questioned the right of the Executive to govern the conquered territories—and that by the rigors of martial law—in the recess of Congress, and the absence of any other rule. No man has gone further than myself in the support of measures which were necessitated by considerations connected with the public safety. I can very well recollect the time when gentlemen upon the other side were startled by the boldness of my claims in favor of a *quasi* dictatorial power in the Executive, and Democratic presses held me up as the champion of absolutism. Then, however, it was claimed but as the extreme medicine of the State, and not its daily bread; not to found an empire, but to save one. Thank God! the occasion for these things has passed away. It is no longer permissible to resort to the war power for apologies for extreme measures, and particularly such as are obviously unnecessary. But there never was anything in that power to warrant the erection of a State by executive proclamation. That is an act of legislation that goes far beyond any example in British history, even in the complying times of Henry VIII, when a servile Parliament made itself alike memorable and infamous by giving to royal proclamations the force of law. I trust we are not yet ready to emulate and even improve upon this example. I do not relish the exhumation from the repositories of the dead past of such engines of arbitrary power as these. I would as soon think of going to the Tower of London, to borrow the material appliances that are still there to testify of the tyranny and barbarism of the buried centuries of England. There is a flavor about them that is neither pleasant nor wholesome. If the work done through such instrumentalities had been in all respects what my own judgment would have approved, I should have hesitated long, on grounds of principle, even in the absence of any intended interference with the rights of this body, before I would have given my sanction to a precedent so fraught with mischief for future times. I would not even mar the pedigree of the returning States by allowing a bar sinister in the escutcheon of any of them, and do not care to be associated in history as a member of the Thirty-Ninth Congress of the United States along with the dishonored council of the sixteenth century, that betrayed the rights of Englishmen by abdicating its powers in favor of such claims as these. Crown lawyers have only defended them in high prerogative times, as an expedient made necessary by the infrequency of Parliaments. There is no such apology in these cases. The very object, as confessed by the undisguised hurry to bring these new governments to our doors at the opening of the session in full panoply and compact array, was to anticipate the action of Congress in the premises. The pres-

ent Executive, like his predecessor, has his plan of organization. The proclamations disclose it. He had a right, of course, to his opinions. He was, however, a Southern man, and a citizen of one of the offending States. He was not likely, therefore, to think in the same way precisely as the twenty millions of the loyal States who had fought this great battle. He had never, if I mistake not, declared himself very strongly against slavery, except so far as it was in antagonism with the Union. His local associations and prejudices of education were *à priori* almost sure to arrest him at that point where a guaranty of the civil rights of the enfranchised class should be demanded. He had been loyal and faithful under great trials. That fidelity had made him the choice of the Union party of the North for the second office in the Republic. The bloody hand of treason opened the way for his succession to the first. It had become his right to advise, and his opinions were entitled at all events to the highest possible respect, but the mode of enforcing them was pointed out in the Constitution. It was only through Congress that he could properly make them known, and the very relation in which he stood toward the loyal States seemed to make it peculiarly appropriate that he should take no step without at least conferring with their representatives. He has not chosen to follow this course. He has preferred to treat directly with the rebels themselves, or to dictate as a conqueror, such terms of restoration as were agreeable to himself. I will not say that this was done because he apprehended the existence of a different opinion here, but the effect is, that the opinion of the Executive, hurried into act in advance of our assemblage—supposing such a difference not impossible—is thus staked against the will of the representative body. It is the sword of Brennus flung into the scale. It looks to me—nay, in the light of the message it is—a challenge to Congress and the free North, upon a question of jurisdiction in a case where their exclusive cognizance is not even open to dispute, which we cannot afford to decline, and upon the acceptance or refusal of which will depend the determination of the point whether, in the face of an executive edict, an opposing legislative will is possible.

If a claim of this sort was stoutly and successfully resisted by our ancestors, when asserted by the Tudors and the Stuarts, how are we to excuse ourselves to posterity for surrendering it now to a mere temporary Executive of our own choice, with powers so limited and so accurately defined? I trust we have not become so habituated to the exercise of a prerogative like this, as to have forgotten that there are boundaries, which in a state of peace no department of the Government can safely be allowed to pass. The danger throughout—the one prefigured by some of the leading spirits of the Revolution; the one foreshadowed when Patrick Henry declared, “Your President will be a King”—has been in this direction only.

The vast discretion necessarily lodged in the Commander-in-Chief in times like those through which we have just passed, the extreme prominence of his position, and the enormous influence arising from the control of an immense expenditure, were almost sure to give to that officer a greatly preponderating weight, and to make the world—accustomed only to royal wars and royal rule—believe that it was the President alone, and not the Congress or the people, who had saved this nation, and whose business it was to restore it in all its parts. And therefore it was that the same claim of power in the proclamation of December, 1863, provoked no animadversion here, while the details of the Presidential plan were subjected to the severest criticism: and no special complaint was made when the will of the law-making power was disregarded and overruled. And therefore it was, too, that the House bill failed on a second trial. And for the same reason, it is now, that the press and politicians of the nation, instead of controverting the power of the Executive altogether to meddle with the reorganization of these States, and denouncing the attempt on his part as a clear usurpation, have only complained in whispers and with "abated breath," that he did not extend the right of suffrage to the black man, while even so intelligent a personage as Robert Dale Owen, has referred to this work of reconstruction as the greatest of the many difficult and responsible duties which the termination of the war has devolved on *the new President*; and even the fierce Democracy itself, which made the night of the rebellion hideous with its insulations about arbitrary power, is either smitten dumb with admiration, or swells the peans of triumphant treason with a chorus of hallelujahs, in honor of the wisdom that surprises and anticipates its wildest hopes. It seems, indeed, to have been well-nigh forgotten throughout the country, as well as at the other end of the Avenue, that we have a Congress, which is, under the Constitution, the law-making power of this nation. People inquire only what does the President intend: while the Associated Press ministers to their curiosity by daily bulletins, reporting every phase of the Imperial pulse, as though it were watching by the bedside of royalty, and kindly informing us all of the precise terms on which the President has determined to readmit the traitors on this floor. The time has now come, however, to rectify these errors, and to assert and maintain the rightful jurisdiction and powers of this body, if they are ever to be asserted again. With the highest admiration of the constancy and heroism of the present Executive under the severest trials, and with every disposition to support his Administration so far as fidelity to my own high trust will allow, I cannot consent that a question like this, in which the interests of so many generations are involved, shall be withdrawn from the people of the loyal States, who have suffered and sacrificed so largely, and settled by the decision of any one or even seven men,

no matter whence they come, or what positions they may hold. No more can I allow myself to be instructed here, that while the power of settling the terms of readmission is with the President, I have no jurisdiction as an American legislator, except to register the acts that he has done, and then humbly inquire as a member of this House only, whether the candidates who present themselves for admission here have complied with the mere formalities which his Legislatures have prescribed. It is here only—in these Halls—that American liberty can live. They are her inner sanctuary—her holy of holies—her strong tower of defense—her last refuge and abiding place. Here are her altars, and here her priesthood. It is only here, too, that my own great State, whose blood has been poured out like rain, and whose canonized dead are now sleeping on every battle-field of freedom, has been called into counsel during the last four years. She has no voice elsewhere. On the theory of the President, and the results of his experiments, she has given out no uncertain sound. She bids her sons whom she has placed on guard at the Capitol in this hour of the nation's trial, stand faithfully—as did her heroes in the bloody trench—by their trusts as Representatives, and resist with jealous watchfulness every attempt from whatever quarter, to encroach upon the just powers which she has delegated to them. If the performance of this duty should involve a difference with the Executive of her own choice, while she would deplore the necessity, she will expect her Representatives to take counsel from those who sent them here, alike unawed by the frowns and unseduced by the blandishments of power. I dread the conflict, which is not a new one in the world's history, but I cannot choose but meet it when it comes; and I have a trust that we shall yet be able to discuss the great question of the times, and to settle it, too, without prejudice, and in utter oblivion of the fact that the Executive has any theory on the subject.

It has been said, however, by way of quieting the public fears, that these plans were merely experimental, and that no harm could come of them, because, under the Constitution, Congress must be the judge at last of the qualifications and eligibility of those who might present themselves for admission to seats in that body. The work accomplished, we are now awakened to the fact, that the power referred to here is only that of each House acting separately upon the qualifications of its own members. While the Executive assumes the right himself of founding new governments, by a new law declaring who shall vote, and settling by telegraph the terms of their constitutions, he is pleased to claim, in his recent message, for these creatures of his own—other but still the same—with their vitalities repaired at that fountain only—the right to resume, of course, and without inquiry into his work or theirs, the places which, by an ingenious fiction, they are supposed to have before held in both branches of the

national Legislature, making, as he says, "the work of restoration thereby complete;" while we are instructed in terms of unusual emphasis, that *then* it will be for us, "each of us for ourselves," to proceed to judge of the smaller matters of the law in regard to "the elections, returns, and qualifications of our own members." These instructions are, perhaps, somewhat unusual, and possibly not that kind of information precisely to which the Constitution refers, but I do not quarrel with them on grounds of etiquette, even though the advice may seem gratuitous, and the jealousy of a British Parliament might have regarded it as a breach of privilege. They are not, it is true, exactly in accordance with the tenor of the authorized report of Mr. Stearns, which did convey the opinion that we might "check these new governments at any stage, and oblige them to confess their errors," unless it was intended to affirm that power only as the special prerogative of the Executive himself. They are, however, the official utterances, and the apology assumes, of course, that there is no question of legislation involved. With this interpretation of its meaning, there is nothing left to Congress, but to register the edicts and ratify the work of the Executive. Taking it, however, to be otherwise, they are still not less obnoxious to objection. It may be conceded that States have been admitted here without any precedent legislation though none, I think, where they were organized under the direction of the military power, and none, certainly, without the concurrent vote of the two Houses. By those, moreover, who think that these States were never out, it will be insisted, in accordance with the executive idea, that they want no recognition, and the refusal of Congress to admit their members will be only regarded as a denial of right. But the mere negative of either House upon the question of their admission, is a power greatly inferior to that which presides over their organization, and prescribes the law by which the formative process is to be regulated—just as inferior as the veto lodged by the Constitution in the hands of the Executive, is to the initiative of the Legislature. The builders will work according to that law, and as it prescribes, so will the structure be. As we sow, we must expect to reap. "Men do not gather grapes from thorns, or figs from thistles." Thus, if a privileged class is to elect the delegates, their work will be in accordance with the principle of their origin, and will be submitted—if submitted at all—for approval or rejection to the same parties who inspired it: and if the government so framed is to be recognized because it professes to be a representative one, the right of declaring its whole fundamental law might as well be accorded to the Executive, as that of declaring a part of it, and assembling a convention to alter or amend that part. There was no occasion, however, for experiments of this sort, whose only tendency is to forestall the action of the legislative power, or to bring about a mischievous conflict between the two branches of

the Government. If this is properly a legislative—and not an executive function—as nobody can successfully deny—the President has his veto, at all events, upon the action of Congress. He cannot invert the order, and change the constitutional relation, by initiating an act of legislation, and leaving to Congress only a negative voice thereon, particularly in a case where the voters named by himself are expressly endowed with the power to restore the State to its constitutional relations with the Federal Government, and to present such form of government as will entitle it to the guaranty of the United States, and where, of course, it is expected that their work shall be conclusive.

It will be said, perhaps, in reply to all this, that the object here was not to found a State government, but to allow the legal voters of the old *régime* the privilege of altering and amending their original forms of government, so as to restore them to their constitutional relations, and entitle them to the benefit of the guaranty.

It is not to be disputed that these are a part of the objects stated in the proclamations. I will not say that this was done by way of protest against the logical conclusion from their premises, from the whole character of the act itself, and the assumption of power which it involved, that the measure was a revolutionary one—as Governor Orr admits it to have been. I shall be excused, however, for suggesting that it was unfortunate that the law adviser of the Government—perhaps its political Nestor—should have overlooked in this a departure from his own premises, that could scarcely have been excused in a junior pleader in the Northern States. He had obviously forgotten the recital on which these proclamations rest—the postulate that "the revolutionary progress of the rebellion had deprived these States of all civil government whatever," and the declaration that the purpose of these conventions was to enable the loyal people of these Territories, not "to alter or amend" their constitutions, but "to organize," or construct anew, where the original government was admitted to have perished. Whenever he shall be able to explain how a constitution can exist in a Government that has been altogether destroyed, or why he should have treated the process of *organization* as a mere process of *repair*, I shall be glad to hear from him. The man who reaches this conclusion from his premises, will have "no narrow frith to cross." I hope I shall not be considered uncharitable, however, in suggesting that all this inconsequential logic looks to me as if it was the effect of an unhappy struggle to escape the consequences of a doctrine, which was felt to be necessary in order to raise the power in the President, and is then discarded, after having served that use, in order to remove the case from the jurisdiction of Congress. It will require something more, I think, than either the subtlety of a northern placeman, or the exploded metaphysics of a Kentucky statesman, to reconcile any one step in •

the action of the Government, with the idea of the continuing existence of the States.

In the same spirit, however, apparently, that prompted the softening down of an organization into a mere question of alteration and amendment, there is a studied avoidance of a phraseology that has found acceptance here, without even provoking criticism. We called this heretofore, in our simplicity, by the harmless name of "reconstruction." The Attorney General protests, like Bardolph, "by this light I know not the phrase," and straightway our nomenclature falls into disrepute. Well, I am ready to maintain, if necessary, in the language of the same dramatic personage, that it is "a very soldier-like word, and of exceeding good command." It is the merest hypercriticism to object its application to the adjustment of our relations with the revolting States; but whatever difference there may be here, it is impossible that there can be any dispute among scholars in regard to its precise aptitude in describing the reorganization of a State. The question is too big, however, to be settled in this way. If anybody prefers the word "restoration," I have no objection apart from its historical significance. It was the phrase used on the return of the Stuarts. I hope it is not ominous. Charles II came back without conditions, notwithstanding the efforts of Hale, who endeavored to secure them, but was put down by the assurances of General Monk. (I hope we are to have no General Monk in this case.) Bishop Burnet says that this omission was the cause of all the errors of his reign, which it required the Revolution to cure. I know that there is a confidence here, and a longing in some quarters, not unlike that of the Jacobites of England, for the return of the self-exiled royal family of the South, but I trust we are not about to lay the foundation for another revolution by the same mistake. Apart from this, I repeat that I am indifferent as to the word. It is sufficient for me that it implies, if not destruction, at least derangement—disturbance—displacement. The revolting States have, by a new law, deflected from their orbits, gathered round a new center, and ceased to compose a part of our system, or to be obedient to its law. They want renewal or regeneration. They require to be brought back by an interior adjustment that will reinstate the law that has been broken. They are in the system, and compose a part of it only *de jure*. Nobody can say that they are there in point of fact, because that would contradict not only our knowledge, but our senses. Something, it is admitted on all hands, must be done to reestablish their relations with the Union. They cannot do it themselves. Nobody pretends that by the mere repeal of their secession ordinances they can resume their places here—as they might do if they have not withdrawn—in virtue of their original title, and with all their rights and privileges unbridged. Their Legislatures have been even forbidden to assemble. The Executive thinks that by their act of treason the cit-

izens consenting thereto have forfeited their highest political right—that of self-government—and that to this extent their constitutions—not as they stand now, but as they stood before the rebellion—are practically abrogated. He thinks, too, obviously, that by their abdication or dereliction—as in the case of James II—the sovereignty has lapsed—but not to us. A committee of the last House insisted that it returned to the conquered people. He claims it for himself, and accordingly sets aside their Legislatures, Governors, and judges, reconstitutes the body-politic, declares who shall be its members, and appoints a provisional governor to keep the peace, and call the privileged parties together to organize a new government. And all this is called amendment, upon the ingenious suggestion that they are to build on the substratum of their dead constitutions! No cunning phraseology—no artifice of words—however, can change the nature of a thing. The re-enactment of a part of an abrogated law, either with or without addition, is no amendment. They might as well have taken the constitution of Pennsylvania to work upon, and in either case the product would have been a new constitution.

But why so studiously insist on the avoidance of other phraseology than this? Because, as it is urged, although the people of a State may destroy their government, it still subsists *in gremio legis*, or, in the language of the message, following that of an ingenious southern Governor, "in abeyance," or as lawyers would phrase it, in the clouds—on the charitable hypothesis that suicide is impossible, because it is forbidden, and, therefore, by a pleasant fiction, all those pregnant acts that have scarred a continent with fire, and covered it with ruins, are simply void, and to be ignored as nullities. And this we are now informed by the Executive is "the true theory." It is undoubtedly the convenient one—for the traitors—because it furnishes no solution of the great problem of the times, except in the surrender of all control over the rebellious States, and the restoration of their people, without conditions, and with absolute immunity for all their crimes. Why it is the true one, he has not vouchsafed to show. I know, of course, that the high functionary who dispenses the patronage of such an empire as this is not always expected to render a reason when he chooses to dogmatize, and that, in the view of but too many of the leaders of public opinion, it is impossible for such a man to err. With a practice, however, so entirely at variance with this theory, and an admission, too, in the same breath, that "the policy of military rule over a conquered territory"—the very rule under which all that region has been governed, and all these States reconstructed during the recess of Congress—"would have implied that, by the act of their inhabitants, they had ceased to exist," it would not have been unreasonable to expect an explanation of the course that has been actually pursued within the jurisdiction of inde-

pendent States, that enjoyed the rare advantage—unhappily denied to our race—of being incapable of sin, and equally unobnoxious to the penalty of death. The only answer that he could have made would have been that the doctrine, although good as a theory, was good for nothing else, because it would not work, and was utterly inadmissible in practice. The State, however, in the judgment of the President, still lives, with only an “impaired vitality,” although its government has been destroyed. It is dead, to be sure, as Lazarus; in no mere trance, where the vital forces are still holding the organization together, but with all its elements putrescent or decomposed; but then there is a power in the Executive, beyond the kingly touch that purged the leprous taint from the blood of the believing, that can awaken it from the sleep of death, lead it forth in its grave-clothes, tide it safely over the frith of a four years’ rebellion, and bridge over the unfathomable gulf that during all this time has divided it from the living! Yes, while it is admitted again and again that the old State governments were lost beyond even the means of self-resurrection, this modern Phoenix is supposed by some mysterious conveyance, by some metempsychosis unknown to the philosophers of Greece or the priesthood of the Nile, and only rivaled by the imposture of the Grand Lama himself, to have inherited the vital breath of the defunct State government, though that State government—dead to us, if not dead altogether—has transmigrated into the confederacy, and now lies buried among its ruins. But let us examine this new revelation.

If the acts done by these States had involved only a question of excess of power, as in the case of a law enacted by a State Legislature in violation of the fundamental law, this view of the case might have derived support from the doctrine that prevails in such cases. Here, however, the fundamental law itself was changed by the very power that enacted it. Whether right-fully or not, in view of their Federal relations, is not now the question. It is sufficient that they did, in point of fact, erect new governments upon the ruins of the old. And this, although it had been expressly forbidden, could not, in the nature of things, be prevented. There was nothing in the Constitution of the United States that could hinder the perpetration of an act either of treason or suicide. They might have allowed their governments to perish by omitting to supply their integral members, or they might have withdrawn—as they did—from the Federal connection by entering into other alliances, disclaiming its authority, and refusing to obey its law, or take any part in the administration of its affairs. All this they did, and more. It was the act of the people themselves. There was no interregnum. They carried their constitutions into their new relations—changed, it is true, in this particular, but still republican in form. They might have changed them into monarchies. Their new establishments are now

overthrown. But how is this to revive others that are admitted to have previously perished? Nobody pretends that it could. The proclamations themselves admit that they have been left without governments, and without means of recovery except at the hands of the Executive. Can it be truly said, then, that any portion of the original structure was rescued from the general wreck? If there was, then how much, and who shall declare it? True, one of the objects stated is to enable them to restore themselves. But does anybody insist that they can do it? Is this consistent with the grounds on which the proclamations rest? If they can, what is to be said in apology for executive interference? If they can, what is to be said of the other object declared in these instruments, which is “to enable the people of those States to present such forms of government as will entitle them to the benefit of the constitutional guaranty, by restoring them to their constitutional relations, and their people, therefore, to protection from invasion, insurrection, and domestic violence?” What does all this mean? If they were States in the Union, it required no process of organization or restoration, to confer on them the advantage of these rights, because they were entitled to them already by the very letter of the Constitution. It is because they are not—because they have been “deprived of all civil government whatever”—that the President proposes to make them so, and to endow them with these rights anew, by reannexing and bringing them again into the Federal connection—from which they have been confessedly detached—upon a new title, by his own act, and without any agency of ours. It is a confession of outlawry, which no legal acumen, no ingenuity of phrase, can explain away, and it is worse than idle to quibble upon forms of expression in the face of such an admission.

But supposing these State constitutions to be still in force, as they existed antecedently to the passage of the several ordinances of secession, on the ground that all that has been enacted since in violation of the Federal law was simply void, what then was the occasion for any amendment, and whence does the President derive his authority to interfere at all, and to change the law as it stood before, even on the subject of amendments? In that case they may return, of course, whenever they think proper, without any legislation whatever. Why await the repeal of an act that is absolutely void? What is to prevent them from coming back with their constitutions as they are? Taking it to be a question of amendment only, it is clearly in their discretion to amend or not; and if they are still in the Union, there is no power here or elsewhere to say what amendments they shall make, or that they shall not resume their places here without alteration of any sort. The executive branch of the Government admits, however, that something must be done to restore these outlaws to their original *status* in the Union. The war has resulted, as we agree in thinking,

in the emancipation of the slave, and the destruction of the elective franchise along with the government; and these things must be in some way acknowledged. They are unquestionably forcible; but should they refuse to recognize them, that refusal would, on his hypothesis, constitute no sufficient reason for excluding them. The question of the effect of the proclamation of freedom is one that belongs to the courts, and you cannot draw it within the jurisdiction of Congress or the President, except by assuming that these States are out and must be formally readmitted. In that case you may prescribe terms. Without that you must open when they knock, without inquiry as to their constitutions, with which you will then have nothing to do. To stipulate for the acknowledgment of these things, is but to treat for their readmission on that basis, and amounts to no more or less than a compromise with a belligerent; and they may reject the conditions, because you can impose no terms of amendment upon them.

Taking it, however, that their constitutions do require to be amended for these purposes, how is this work to be done? Not by executive direction certainly. The President has no more power to set up a new class of electors in South Carolina than in Massachusetts. There is but one way, and that is in accordance with the law which they prescribe themselves, which must have survived if any part of their constitutions did. The process which ignores that law, as the proclamations do, is radical and revolutionary, and is no less in effect than absolute reconstruction. The sovereign power of the people may act in this way undoubtedly, but when it does there is an end of the existing government.

A word now as to the answer that all this was intended only to allow to the people the privilege of doing this work themselves.

If the object had been only to keep the peace for the purpose of allowing these people to decide whether they would erect a new government, and apply for readmission into the Union, nobody would have complained, although the necessity for interfering in this way was conclusive that they were not in a condition to exercise these rights, and that the act was not a voluntary one. But they were not asking the privilege of coming back again. It was not essential that they should come, until they were ready for it. It was essential that when they did, it should be of their own pure volition. To compel it, was as impracticable as it was undesirable. And yet the essence of the proclamations is a command. They are not permissive but imperative. The people might not be ready, but that made no difference. If any of them failed, it was a default. The right to vote was not a privilege, but a duty. The white men, who were loyal and would take the oath, must reconstruct their governments at all events. It is idle to say, therefore, that this was a mere indulgence to their prayers. It went in advance

of the wishes of the people, and this is the construction placed upon it by the highest intelligences of the South.

And now as to the way in which the power claimed by the Executive has been exercised.

If the function were a purely executive one, it could not go, of course, beyond the mere permission for the assemblage of conventions, and the pledge of protection to the citizen in the exercise of this privilege. To favor classes—to proclaim that this or that citizen should not be allowed to vote—was something more than an executive act. In the case of a civil dissolution and the absence of all government, such as the proclamations admit, all were, of course, remitted to that natural equality which is recognized in the Declaration of Independence, and had only been suspended by force of the civil institutions which had then ceased to exist. The right of the negro, whether previously bond or free, was in that condition of things, as perfect as that of the white man, and the latter had no more right to say to the former that he should not vote, than the former had to hold the same language to him. All privileges of caste or complexion that existed under their old constitutions were gone along with the constitutions themselves. And this is in accordance with the doctrine everywhere received throughout this nation, where all limitations upon this right, except those which depend on condition only, are the results of express enactment. It was no question, therefore, of grace or favor or indulgence, and it cannot, of course, be said in excuse for the prohibition, that it was not competent for the Executive to confer the privilege on this particular class. It was not his to confer on anybody, either white or black. If he had left the election to the citizens who owed allegiance, paid taxes, and were subject to bear arms, they must have voted without distinction of color. The only question was—not whether he could confer it—but whether he could take it away. He has taken it away from others—from all who were not qualified under the old constitutions, and from all who are disloyal, or refuse the oath to support the laws and proclamations in regard to slavery. The old governments with their black codes, which were the fruitful nurseries of treasonable sentiment, and have destroyed themselves by hurrying their people into the rebellion, are allowed to furnish the rule and standard of electoral fitness, on the hypothesis that there is something left of them that still lives, like the tail of a defunct reptile after the very life has been crushed out of its body, and are only to undergo alteration and repair at the hands of the same cunning workmen who had destroyed their machinery altogether. It is the same class precisely that is to renovate the work. True, it is with the condition of loyalty, and a new oath, superadded. But what are these? Who are the loyal? Not certainly those who committed treason against the nation by waging war against it, or giving aid and

counsel to its enemies? But if they are excluded, who are to be the voters, when the only class that proved true to its allegiance, is precisely the one which was excluded under the old régime that it is now sought to restore? How many of the original voters, beyond those who were driven into exile, have stood by the old flag in the hour of our trial? Was it a majority—was it even a tithe? Can there be as many such men found as would have saved Sodom from destruction? We know that there cannot, because we know that they would not have been tolerated on southern soil. We know it, too, from the declaration of the Governor of Virginia, that unless the law that disfranchised the traitors only from January, 1864, was repealed, there would not be men enough left to organize the State. And is it seriously proposed that the power of erecting governments, in order to enable these States to resume their places in the Union, shall be vested in a score of men out of a population counting by millions? But how is the question of loyalty to be determined? Not by the oath, because that is merely cumulative, and is not offered either as a test, or by way of purgation for past offenses. If as a test, the word might as well have been omitted altogether. How then? Is there a virtue in the amnesty which works not only oblivion for the past, but converts a pardoned traitor into a loyal man? Is it by judgment of law on conviction of crime? Is it by attainder on proclamation by the Executive? Is it by a trial *in pais* or by compurgators at the hustings? If the old constitutions are still in force, either by construction of law or by virtue of the proclamations, the exclusion even of those who may be impeached of disloyalty, looks amazingly like the forfeiture of a legal franchise, without judgment and without law, and is too high a power to be exercised by any other than the sovereign.

But there is another condition superadded, by way of abridgment of the right; and that is the exaction, even from the loyal, of the oath to support the proclamations and laws relating to slavery. No friend of the country will of course object to any wholesome limitations upon the privilege; but if it was not competent to the President—not to confer, but only to permit it—to the black man, what authority was there to limit it in this way to the white man? Neither the Constitution of the United States, nor that of any of the States, has ever required an oath of this sort from the voter. If he could impose this, what was there to prevent him from swearing them to the observance of all acts of Congress and all proclamations, or requiring them to swear that they had never given any aid or countenance to the rebellion? If he could disfranchise the unconvicted traitor, what was there to prevent him from enfranchising the loyal man who has become free? But what is the security which it furnishes? How long is the obligation to endure? Did it bind the members of the conventions? And if these bodies

have defined the qualification in a different way, are the voters now free?

The programme is in effect to recommit these governments to the hands of the very men who hurried them into the rebellion, upon the sole condition of a new obligation of fealty, after having just broken a previous one, and to abandon the field to the conquered as soon as it is won! Was ever such a *dénouement* to such a drama? But is there anybody in the loyal States, who is willing to release all the securities, all the rights and advantages acquired by the war, and prescribe no terms to those whose lips have just been dyed with perjury, and whose hands are still dripping with the blood of our butchered sons, except a renewal of their already broken vows, which they will make voluntarily, and then claim to have no binding force because they have been made under a sort of duress, on the ethics taught by a distinguished casuist of Maryland? What kind of a test is this for a statesman? Would any rational Government on earth be content with such a caution? Who does not know its utter worthlessness? What is it but the flaxen tie that bound the wrists of the Hebrew champion? What is its value, in view of the events of the rebellion that have now passed into history? How is our past experience? Have these people ever kept faith with us? Did it hold any of the rebel leaders who filled employments either civil or military under the Federal Government, or under those of the revolting States? Was not perjury exalted into honor of the highest chivalric type; children taught by their own Southern mothers, that they were under no obligation to keep faith with Yankees, and that they might swear and forswear themselves again and again, to save their persons or their property; and the very highest species of the *crimen falsi* canonized even by the tender and admiring regards of Northern generals and Northern statesmen? It may be safely assumed, as a general proposition, that those who were most forward to abjure their sworn allegiance here, will be the first to violate their new-made vows, by swearing themselves back again into legislative honors and governmental favors. But will you consent to turn over the few Union white men, and your thousands of faithful allies among the blacks, to the tender mercies of these unconverted and unrepentant rebels, and bring them back again into these Halls, on pledges of fidelity that amount at last to no more than an engagement not to repeat an experiment, against which you will now want no other security than the recollection of your power? If you are wise you will not be content with any assurances that are either purchased by interest, or extorted by necessity. You will render it impossible for them, to deceive you again, by refusing to trust them, until they shall have reestablished their title to your confidence. Security is more important to you than punishment, ay, even than the demands of justice. Others may do as they please, but as for me, I must beg to

be excused from giving my faith to these new-fledged neophytes—these unbaptized renegades—until they have stripped to the skin, and bathed themselves thoroughly in the waters of regeneration.

But, supposing this guarantee be a merely executive function, how does the manner of performance square with the object sought to be attained? The obligation is to assure a government that shall be republican. The meaning of this is that it shall be a government of the people. The process adopted, in direct contravention of the principles of the message, is to lodge the power in the hands of a privileged class—the same that held it before—distinguishable only by the accident of color, along with a disloyalty to the Union that was almost universal, and composing, in some instances, a minority of the whole population. Does this look like a fulfillment of the obligation, or even squint in that direction? The form, it is true, may be republican, because it looks to representation by election. But that is not the test. If it were, every constitutional monarchy in Europe might be brought within the category. It is the distinction of classes—the permanent limitation of the right of suffrage to a favored few—that makes the difference between the aristocratic and republican forms, and there is none other. In this case, the right is confined to the loyal white man who will take the oath. This, however, if not an oligarchy or government of the few, is at least an aristocracy or government of classes, and furnishes a perfect exemplification of just that species of legislation, which is so earnestly reprobated in those passages of the message, where the President informs us that “this Government springs from and was made for the people;” that “it should, from the very consideration of its origin, be strong in its power of resistance against the establishment of inequalities;” that “monopolies, perpetuities, and class legislation are contrary to the genius of a free Government, and ought not to be allowed;” that “here there is no room for favored classes or monopolies;” and that “we shall fulfill our duties as legislators, by according equal and exact justice to all men, special privileges to none.” If I have found occasion to commend his practice, at the expense of his theory, upon the question of State sinfulness and State immortality, subscribing as I do most heartily to these axioms of political science, I shall feel myself compelled to adjust the account, by following his advice in opposition to his practice here. “Class legislation,” and “special privileges” of a sovereign character, are the distinguishing features of his plan, and it is, therefore, by the erection of an aristocracy, that the guarantee of a republic is to be made good!

Whether these States be in the Union or not, it is conceded by the Executive, in the effort to provide them with republican governments, that they are now without them; and this, I suppose, for the reason that they have no governments at all. The same result, however,

would have followed from the change in the condition of the slave. A Government that not only denies to a majority, or even a large portion of its free citizens, the privilege of any share in its administration, but rejects their testimony as witnesses, interdicts to them the acquisition of knowledge, or refuses the advantages of the marital relation, is not republican, and the men who have made these laws, and insist on maintaining them now, will never make it so. Mr. Burke remarks that, taking the State to mean “the whole commonwealth, with all its orders, and all the rights appertaining to each,” “to be *under* the State, but not the State itself, or any part of it—that is, to be nothing at all in the commonwealth—is a condition of civil servitude by the very force of the definition. *Servorum non est respublica* is a very old and a very true maxim. The servitude that makes men subject to a State, without being citizens, may be more or less tolerable from many circumstances, but these circumstances do not alter the nature of the thing.” And this he regards as a modified form of slavery; while “the exclusion of whole classes of men from the higher or ruling part of the commonwealth, as in the case where a hereditary nobility possesses the exclusive rule, is only held to imply a lower and degraded state of citizenship. But even there it is only the office, and not the franchise, that is denied to the subject.”

“Our constitution,” he continues, “was not made for great, general, or proscriptive exclusions. Sooner or later it will destroy them, or they will destroy the constitution. In our constitution there has always been a difference between a franchise and an office, and between the capacity for the one and for the other. Franchises are supposed to belong to the subject as a subject, and not as a member of the governing part of the State. The policy of the Government has considered them as things very different; for when Parliament excluded by the test acts Protestant dissenters from all civil and military employment, they never touched their right of voting for members of Parliament, or sitting in either House”—both these being treated by him as franchises of which the subject could not be deprived. In a republic, however, there is no proper distinction between the governing part and the subject, and the office, of course, would stand on the same ground as the franchise.

An American statesman of the present day would say, perhaps, that the elective franchise, the most important of them all, is not the property of the citizen, because it is not a natural right, but a political one. I have heard such language here, even on this side of the House, again and again. I am too dull to comprehend the distinction. I take it that all governmental agencies, all political contrivances and privileges, are but the machinery for the protection of the great natural rights of humanity, which protection is admitted by the Declaration itself to be the only legitimate object of all govern-

ment. Why are our institutions free? Because they allow to you and me the privilege of governing ourselves. Why am I a freeman? For no other reason than because I am armed with the ballot for my own protection as a citizen. Strip me of that and I am at your mercy. You may deal gently with me, it is true—and so might the Sultan of Turkey—but that makes no difference. I am still the slave of your caprice, and my rights and happiness may depend, like your temper, on the state of your digestion. You may designate this franchise by what name you please, but you cannot refine it away by verbal distinctions or scholastic subtleties—by calling it political or giving to it any other nomenclature. You might as well deny me all the rights of a citizen, because they are all political, as deny me that one—the most important of them all—which is essential to the protection of the residue. Nor can you pilfer it from me by the jugglery of assigning to it the distinction of a prerogative or privilege. I know no prerogatives here, and no privileges that are not, or at least ought not to be common to us all. The message itself rebukes a subterfuge like this, when it asserts the great republican idea of "equal rights for all, special privileges to none." No: you must either settle the principle that this is a white man's Government alone, or you must share all your political rights with men of all complexions who inhabit among you. The Democrats, *par excellence*, who love slavery for its own sake, and do not of course favor the doctrines of either liberty or equality as to the black man, accept the alternative that this is a white man's Government—as does the President himself in his one-sided argument with the dusky committee that waited on him a day or two ago, in declining to answer as to South Carolina, assuming that they are not a portion of the people, and advising them to emigrate from the country which he had previously declared to be their own—and are therefore consistent and logical in denying the suffrage to the negro, as they are in favoring the policy that ignores the war, and seeks to rehabilitate the aristocracy of the South. I wish I could say as much for the Union party as a whole on this floor. Gentlemen of that faith are without apology when they agree with them in either.

The proclamation has made the negro nominally free. He counts in the representation. He pays taxes, and must bear arms if necessary, and he has done it. No sensible man now pretends to doubt that he is a citizen, or can doubt it in view of these considerations. The interference of the Executive is put expressly on the ground of the obligation of the national authority to secure a republican form of government to each of the States. To effect this, it is essential that a majority should be allowed to enjoy the political right of governing, and that all should share alike in its direction. To put any class *under* the State, would be to deprive them of the rights of citizens, and to reduce them, in the words of the authority just cited, to a state

of civil servitude. It is essential, moreover, that it should rest, in the language of the Declaration, on "the consent of the governed." An establishment that does not conform to these principles is not republican, whether the power be lodged with the *oligoi* or the *aristoi*. No matter as to its forms. We are not to be cheated by appearances or names. It was something more than the mere form that the Constitution intended to secure. And yet the process here ignores all these things, and rests either upon the dimmest perceptions of free government, or upon the southern theory that the negro is not a man, or that this Government was only intended for white men. If the proposition were to exclude all men of Celtic blood, what a sensation would it not produce among the Democracy? If the difference, however, is only against the African, consistency would require that he should also be excluded from the enumeration hereafter. With the end of the "divine institution," the three-fifths clause, which stipulated for a representation—not *of* or *for* him, who was not then a man—but for his master, has ceased to operate. If the freed slave is now a citizen, he has a right to all the privileges, as he is confessedly subject to all the duties which that relation involves. If instead of rising from the fractional value to that of an integer, he is no longer a member of the State, he must cease to owe any other than a domiciliary allegiance, and the idea of a representation founded on his existence here, must be exploded forever. And from this dilemma there is no escape. If he is a citizen, the elective franchise is his right. If he is not, representation on that basis is logically inadmissible.

The effect of the oligarchic process is to reinstate the governing class as it was before, without any check upon it. This we cannot afford to do. There is, fortunately for us, a loyal element among them, that has helped us to bring them back, and may be used to keep the peace—not by either arming or disarming it—but by the restoration of a mere right, which is essential to its protection as well as our own. It is a happy circumstance that the measure of security required by the people of the loyal States, is precisely that which the Constitution has imposed on us as a duty. The obligation is to guaranty to every State in this Union a republican form of government. If "the whole commonwealth, comprehending all its orders, with the privileges belonging to each," is not republican, we are bound to make it so, and are endowed by the Constitution with all the powers necessary for that purpose. But how are these powers to be exercised? Not by the President, because he cannot prescribe the terms. Not by a mere refusal on the part of Congress to admit, because that would be a refusal to perform—but by an act of legislation, which it will be only the duty of the President to enforce. It is a narrow view of this duty which gives to it a merely negative character, such as to put down a usurpation, or drive out a tyrannical

majority. There is a positive obligation to *warrant* or make sure to all the people, a republican form of government; and here is the power that has been sought for so diligently under the law of war, to deal with the conquered territories in such a way as to secure to all their loyal people the rights to which they would be entitled under a republican form of government, and to protect the Union itself from all future disturbance. These States are without governments of any sort—those which existed and were disloyal having been overthrown. It is our constitutional duty to supply them with new ones of a republican character, and to provide that none other shall be erected. If their black population—if a majority of their loyal inhabitants—say, if a mere minority demand the fulfillment of this guaranty, by insisting that we shall provide them with a government that shall admit them to the rights of citizenship, and be at least partly within their own control, we cannot evade the performance by the plea of a want of constitutional power. The declaration of the duty gives it to us, with all the incidental means. That duty is not denied; but we have wielded the sword so long to enforce the law, that many people have come to the conclusion that there is no other weapon for such a case, when in point of fact it is clearly inadequate to this part of the work, and the power of the Legislature is the only one that can successfully accomplish it. It is undoubtedly in accordance with our practice, as it is with the spirit of our institutions, that it should be left to the people themselves, in the first place, to be performed by them in that condition of freedom which our arms have given them. But if they will not do this of their own accord—if the class that has been accustomed to rule, will insist on holding the rein and denying to their fellows, even to a respectable minority of them, the rightful privilege of citizens under a republic—I know no possible way of meeting the case, but by interposing ourselves and prescribing a fundamental law for the occasion. It will not be enough, as I have already remarked, to refuse the Congressmen who may apply on terms that are inadmissible to us. That would be only a denial of justice to the disfranchised which might prove indefinite, instead of the fulfillment of an admitted obligation. If there be any limitation of the right of suffrage it must come from the supreme authority, which is here. There is no power elsewhere, and certainly none in a society that is yet in a state of chaos, formless and void, and with nothing but darkness brooding over it. That authority, it is true, might well disfranchise individuals, such as the traitors themselves, for an enormous crime which showed that they could not be safely trusted with so important a function. It could not, however, proscribe a whole class, comprising a majority of the loyal people, all native to the soil and impeached of no crime, merely because they had black skins or woolly hair, without violating the essential principles of re-

publicanism, and laying the foundations of an aristocratic government. No argument could defend it, except on the judicial hypothesis that the race so excluded had no rights at all that a white man was bound to respect; which would be fatal of course, as already shown, to the whole principle of representation as applied to it. But this hypothesis has no foundation in our early history or practice. The founders of this Government never dreamed of such a distinction. The great charter of our fathers had before affirmed the equality of all men. It was not race or color, but condition, that created the constitutional disability. The slave, of course, could not, in the nature of things, be admitted to the privileges of a citizen, because that would have been inconsistent with his condition. Everybody else was counted, except the Indian who paid no taxes—an incarnation, by the way, of the revolutionary formula, stereotyped on the hearts of the colonists, that condensed the causes of their struggle into two memorable and mighty words. The notion that a taint of African blood, or any diversity of complexion, was a disqualifying feature, is a purely modern invention, which is but the growth of that barbarous and unnatural system that has debauched the moral sentiment, and left in many minds only the feeblest conceptions of rational freedom. The free negro voted originally almost everywhere. It was a consequence only of his unquestioned citizenship. To admit him, it did not require a special grant, by the insertion of the word "black" in any republican constitution. To exclude him it did require the insertion of the word "white." The only color that the framers of the Constitution seem to have ostracized is the red. But even here, it excepted the tax-payer, and was by a designation of race. They had sense enough to know that a principle of exclusion resting on so uncertain a basis as color, would be unfitted for any constitution.

Apart, however, from the considerations already stated, there are special reasons in the present case for insisting that the guaranty shall be fulfilled in good faith; and these are, to recompense the black man for his unwavering loyalty in the hour of trial, to afford him the means of self-protection in the enjoyment of the rights he has so richly earned, and if these are not enough, to protect ourselves against any future disturbance from the same arrogant and presumptuous class which has just been chastised into a decent respect for ourselves, and a reluctant submission to our laws.

We began the war by repelling the black man and returning him to his master; by doing everything, in short, to alienate him from ourselves, and prove to him that he had nothing to expect from us; and this was called statesmanship! If ever a people deserved to be chastised, it was ourselves, for the ineffable baseness and fatuity which refused the aid of the negro, and sent a hundred thousand white men to die, rather than wound the pride, or harm the prop-

erty of an enemy! We failed to drive him from our support even by the unkindest usage. When we plunged within the storm-cloud that overhung the South, and concealed everything from outside view, we were not long in discovering that the white skin was everywhere synonymous with the traitor heart, and that wherever we could meet a black man we were sure to find a friend. He took our soldier by the hand, led him through the outposts, pointed out the secret path, traveled with him by night, shared his last crust with him, and baffled the bloodhounds that were on his track. As the war progressed, we began to find that with such an auxiliary against us, success was impossible. We made him free. But still we could not lift him into the position of a soldier, which was a privilege of caste in ancient times. People who foresaw that the step was an easy one from the soldier to the citizen—themselves of craven hearts and more slaves than he—insisted that he was like his detractors, loved his chains, and was a coward by instinct, and that the white soldier was a fool, who would throw down his arms if you sent him an auxiliary whose skin was not quite as fair as his own. You listened and believed. But by and by, impelled by necessity, you allowed your brave and right-thinking Secretary of War to arm him quietly. You rather winked at, than encouraged it; and before long the truth blazed upon you from the trenches of Port Hudson that the black man was in your ranks. He has now added to the title that God Almighty gave him, a claim upon your gratitude. How do you propose to pay it?

Nothing is clearer than that you have made the privilege of the ballot necessary for his protection, by making him nominally free, and using him to put down the rebellion of his master. That master will not soon forget the infidelity of the slave on whom he relied, or the humiliation that the proud chivalry has suffered at the hands of its own born thralls. Even the bond of interest that compelled him to treat that slave with kindness, because he was his money, is now broken. Unable to wreak his baffled vengeance upon you, he longs to pay back the debt he owes you, by visiting his impotent malice upon the humble instrument of your triumph, and proving to the world the truth of what he has so often told it, that you have only made his condition worse by elevating him to freedom. He begs you to withdraw your black troops. He wishes to be relieved from your authority, by being allowed to resume his place in the Union which he hates. For this, he is willing to recognize the results of the war in the nominal emancipation of the slave, if you will leave him subject to his authority, without rights of citizenship, and without any security for the practical enjoyment of the liberty you have given him. He can afford to make this offer, and others, which the Executive hails as unexpected evidence of progress—because he cannot help it. The only surprise to me is, that on such an invitation the

whole South did not rash incontinently into the executive embrace. But will you accept it? If you do, what is your gift of freedom to the black man? It is but "the Dead sea fruit, that tempts the eye but turns to ashes on the lips." What will you have done for "the ward of the Republic," as he was characterized by our generous and noble-minded martyr President, if he is to pass into the condition of a Pariah, and to accept just such terms as his humbled and exasperated master may impose on him? You will only have mocked him with the mirage of liberty to make his condition tenfold worse than it was before. Is this the fulfillment of your plighted faith? Was it your purpose only "to keep the word of promise to the ear, and break it to the hope?" It was the very refinement of cruelty to have inspired such hopes, only to disappoint them. Better, far better, have left the miserable victim of your guile to the slavery in which you found him, content, perhaps, with his condition, and dreaming of no change, than thus to lift him from the earth, only to dash him down again under the feet of his oppressor. Better for yourselves, too—for your present credit and your future fame—if you had declined his services altogether. The world, in that case, would only have regarded us as fools. It will now justly point its finger of scorn at the Government which was capable of the meanness of turning its back on the benefactor to whom it appealed, and appealed successfully, in the hour of its sore distress. What is this but trusting the lamb to the vulture? Will the governing class, to whose tender mercies you are expected to turn him over, because they understand his nature and his interests better than you do, ever suffer him to rise from his degraded condition? What is your experience already on this point? What earnest, what foretaste, what assurances do these men give you of future reformation, even now that the motives for good behavior are so exigent and overwhelming? The condition of the black man as a slave disqualified him as a witness against the master race, who were thus practically in the exercise of a power that placed his person and his life at the mercy of his paler brother. He is now free. Without this privilege, he has no rights that a white man can be compelled to respect. It is essential to his security. No court within the wide area of civilization would exclude him, or any other man, from the witness stand on the ground of race or color. If admitted, and untruthful, as they insist he is, his credibility is still a question for a jury of white men. And yet with this advantage, this badge of servitude is still insisted on, and instead of closing the courts of justice—if they deserve that name, where evidence is excluded on system, and the tribunal of a Turkish *hadi* would be shamed—the Federal Government submits to the humiliating necessity of withdrawing all controversies, wherever the rights of a negro are involved—ignoring those wherein his testimony might be

required between white men—within a special jurisdiction of its own, while it allows these people to make constitutions, just to enable them to escape its power, and do their own will in such particulars as these, as though they were really free of our rule, and could be safely trusted with the performance of such a work! But how is it in regard to the marital relation, with all its incidents? How as to education and preparation for the ballot? Have the schools been thrown open to him? Is he free to work on his own terms, to acquire property, to go about wherever his interests or inclination may lead him, and to seek employment at such wages as he can fairly earn—or is he still subject to condemnation as a vagrant, and sale or apprenticeship for fines and jail fees? What says the official report of General Schurz, the result of a long and extended tour, which is so mysteriously ignored, while in the face of its authentic and overwhelming testimony, the President is relinquishing our blood-bought conquests to the enemy, without even taking the advice of Congress, though now sitting at the capital, and proving the tranquillity of the South by the result of a five days' sojourn in three of its principal towns, which developed the fact that black troops could not be employed to advantage because it would be necessary to accumulate them in large bodies for their own protection? How is it in Mississippi, where the local militia are already stripping the negro of the arms purchased from you as cherished heir-looms—dear memorials—consecrated by the war of liberty, and stained, perhaps, with their own blood, spilt in your own defense, or with the blood of the discomfited barbarians who are now so valorously disarming them? How is it in Tennessee? How in Virginia? It is not the overthrow of the rebellion, but of the abolitionists of the North, that constitutes the inspiring and exultant theme of the Speaker of its House of Delegates. He thanks God that Virginia can still trample on the rights of the black man, because, as he thinks—and as the Executive thinks of all these States—she has never been out of the Union. How, then, is the condition of the negro improved by emancipation, under a policy that cuts him off from the enjoyment of all protection in person or property, and is intended obviously to keep him in the bonds of servitude, and to prove to the world that the real victory is theirs, and that your boon of freedom was only a cheat and a delusion? What is there to prevent the reenactment of the whole black code in any of these States as soon as they shall have been relieved from our control by readmission into the Union upon the terms of the Executive? If you object—ay, even to the imprisonment of a northern seaman—you will be told as formerly, that these are matters of State regulation only. Will you appeal to the courts or send ambassadors to Charleston to negotiate an amicable submission? They will set your courts at defiance, and drive you out with scorn and contumely, as they did be-

fore, and the Democracy of the North will clap their hands and exult over your discomfiture. Is the peace of the country to be secured in this way? You have carried the cup of freedom to the lips of the black man and he has drunk of it. If you would make of him a peaceful citizen, and an obedient member of the State, you must protect him in the enjoyment of the liberty you have given him. To do this, it is only necessary to invest him with the defensive armor of the ballot. That will secure to him the consideration of the white man. That will make it the interest of the superior classes to cultivate him. That will educate him into an intelligent acquaintance with his duties. That will secure peace and harmony to the land. The black man has shown himself to be as docile, gentle, and humane, as he has approved himself loyal and brave. He will make a valuable citizen if fairly dealt with. But remember! he is a man, who has tasted liberty, and felt the glow of an unaccustomed manhood, as his pulse danced with a new inspiration, when he looked up at the folds of your starry banner on the perilous edge of the battle. Beware how you allow these men, who have never yet learned, and never will learn anything, to trample on him now. The policy foreshadowed in the proclamations will make only a discontented people. It is the slogan of battle—the herald's denouncement of that war of races, which is so strangely apprehended by those who urge the very opposite policy to heal up a war of sections. It is the preparation for these deluded people of a future, before which even the savage horrors of their own revolt may pale. The kindred policy that ruled our councils in the same interest for two long years—as it seems to rule them now—proved fatal to the system it was intended to serve, by making its preservation impossible. It may be that God Almighty intends to finish His great work, by giving a further rein to the infernal spirit that precipitated these madmen into the revolt that melted the chains of their slaves. Let us see to it that we be not called upon to repress the outbreak of nature, by drawing our own swords hereafter upon our faithful allies in the war of freedom. We can prevent this now—and will if we are wise—by a mere act of justice that is simple and reasonable, and will trench on no man's rights, while it will extend the area of freedom by popularizing these governments, and bringing them at once to the republican standard of the Constitution. That act is demanded by considerations of the highest wisdom, as well as of the strictest justice. It were a foul shame to refuse it, and a fouler still to add to that refusal the future possible infamy, of turning our own arms, at the call of these delinquents, upon the trusty auxiliaries who have assisted in subduing them, when the tyranny of their oppressors, and the instinctive yearnings of humanity, may drive them to resistance. I should blush for my country—and weep for it

too—if it was capable of an atrocity so unutterably base.

But though we were even insensible to the claims of justice and the emotions of gratitude, and entirely indifferent to the elevation of the negro race for its own sake, we want their vote for our own protection. Our best security is to erect a breakwater against the encroachments of the disaffected white man, by enlisting the counteracting influence—the cheap support in peace—of the loyal black man, to whom we have so successfully appealed in war. We need his suffrage now to assist us in keeping that peace which he had so large a share in making. Take away his musket, if you please, but do not disarm him entirely. The question with me is not whether you can trust him, but whether you can trust the man who asks you to give him the rule again over his rescued bondsman. There are two classes of white men in the seceding States. The higher and more intelligent is essentially anti-republican in habit and sentiment, while the inferior and ignorant is even more abject and servile than the slave himself. He may be educated, however, into a just self-respect, and a sense of his own interests. The governing class never can. To make them republican, you must change their whole social system and their natures along with it. Until you do, and they are thoroughly regenerated, they will be unsafe depositaries of power in a Government like this. If you will not disfranchise the man who has already shown that he is unworthy of trust, you must at least render him powerless for mischief, by placing a sentinel over him, with the bloodless but potent weapon of the ballot, to keep him in order. I do not insist that you shall disfranchise the rebel who professes to have repented, because without him you will have no white element in the case. I have no objection that you should pardon his crime, and even restore to him his lands, if you think that the interests of justice require no indemnity, and no examples. My object is not vengeance. I do not thirst for his blood, even with all his barbarities. Give him back everything else. But for the power which he has shown himself unworthy to hold, and which he has so justly forfeited, restore not that, I adjure and beseech you, by the recollection of the bloody trial through which you have passed; by the respect you owe to the bereaved, the widowed, the orphaned, the maimed who yet live; and above all, by the memory of your martyred, butchered, starved, and mutilated dead. Insult them not by the declaration that the earth has drunk their blood in vain. Expose not yourselves to the bitter reproach, that before their bones have been gathered by pious hands from the fields where they have been left to bleach unburied, their very murderers have been hurried back into your embrace like returning conquerors. If this reunion is to be solemnized on terms like these, wait at least until you have put off your mourning, and stripped your public places of the habiliments of woe. Bury your murdered President out of sight. Cover up the graves

of Andersonville, with all their horrid secrets, and then—then celebrate these unholy nuptials—if you can. Let it not be said, at all events, to your discredit, that “the funeral-baked meats have coldly furnished forth the marriage table.” Open no hall of Valhalla, where the returning braves of the South shall quaff their foaming ale, and pledge you from the grinning skulls of your own dead and forgotten heroes.

But there is another consideration that gives us the right, and makes it an imperative necessity, for our own protection, to insist that the negro shall be allowed to share the rights of citizenship in their highest sense, and that is the fact that the conversion of the chattel into a freeman will greatly enlarge the representation of those States, and bring into Congress some thirty votes on the basis of this peculiar population, while the loyal States must suffer from the increase. If they come, it must be in a representative capacity of course. But whose representatives will they be, if the whole class in whose names they come, and for whom they profess to speak, is to have no voice in their election? To call them representatives of any other than the ruling class, would be a gross abuse of language. The benefit of your act of emancipation then is to inure to the master who has endeavored to break up your Government, while the black man still holds substantially the relation of a slave, and is only used to count for the benefit of his oppressors! And whom will they send to manage the affairs of the Union in the name of the slave? Will it be the man whom he would select himself? Will it be an advocate of his interests? Will it be those who will provide for the payment of the debt of the war, or the pensions pledged to the families of the brave soldiers whose very bones will be spurned aside with contumely by the rebel plowman? What is our experience thus far? Among the first men sent here from Louisiana, was a signer of the secession ordinance, and all three gravitated at once, as by a natural law, into the ranks of the party that opposed the war. The first offering from Arkansas to the other end of the Capitol was a graduate of the same school. But will the holders of our public debt—will our brave volunteers agree to this? No! Ask the men here, however, who sympathized with the rebellion throughout, and denounced the war, and the debt made by it, as alike unlawful, and though professing to be Democrats, they will answer with one voice that this representation by proxy is right and proper, although they do not even admit the negro to be a citizen, and hardly confess him to be a man. While he continued a slave, there was nothing unreasonable in the agreement that the master should speak for him, if he was to be heard at all, because he could have no will of his own. It was at all events the bargain, and we stood by it. That slave is now, however, a freeman. He has a will of his own, and the man who owned him no longer represents it, but the contrary. Looking to his present relations to the late slave, his assumption of the right to speak

for him, is a double outrage on the black man. It is not only to deny him a representative, but to give that office to his enemy. It is in effect to reënslave him.

If the white man of the South is of the opinion that the negro is not fit to vote at home, he decides at the same time that he is not worthy to be represented here; and in claiming that right, asks for himself a power in the Government that will make one unrepentant traitor the equal, in many instances, of two or three loyal northern men. He admits the injustice, too, while he preserves his consistency, by rejecting the negro himself in the interior apportionment of some of his own States. But is it just to the loyal States that he should exercise this power in the Federal Government? Will they consent to this inequality, now that the remedy is in their own hands? Are these people to be rated, in their condition of subjugation, at their own estimate before putting their armor on, as having vindicated their claim to be considered the master race, and so outweigh twice or thrice their number of northern madills? Speaking for myself, I do not choose to have my delegated powers, as the Representative of one hundred and thirty thousand northern freemen, neutralized by a representative of this sort, whether he come here by the *congé d'élire* of a military commander, or is puffed in this direction by the arrogant breath of a feeble but aristocratic constituency. If the white men of the South will insist that the negro shall have no political rights in the States, while he is to appear here to claim a recognition at our hands, only to add to the power of the oligarchy in this Government, then I would insist that he shall appear here either in person, or by his attorney, or curator, or next friend, and not by a guardian or trustee under the appointment of his quondam master, which would be the sublimest of farces. If they are not content with this, then I would say to them, wait until by a constitutional amendment we can offer you the fairer basis of suffrage, which will enable you to swell your numbers as soon as you shall be prepared to do justice to the black man.

It is insisted, however, and most especially by those who profit most by the laws of naturalization, and the principle of universal suffrage, of which they have therefore been the unvarying champions, that the negro is ignorant, and must be educated before he can be allowed to enjoy the privileges necessary for his own protection as a citizen—which is to say, in effect, that ignorance disqualifies for freedom, and ought to make a man a slave. It may be a question whether it were not well if that had been made a condition with all men. But why demand that of the indigenous black man who has been reared under our institutions, and has perhaps shouldered his musket in their defense, which is not asked of the foreigner whose vote and sympathies have been against us? Is he inferior in these respects to the Celtic Irishman who holds the destinies of your great metropolis

in his hands? His instincts at all events—supposing them to be his highest faculty—have taught him to take the side of liberty, when the savage who burned him was exerting himself in the interests of the governing classes of Europe, from whose oppressions he had sought an asylum here, to overthrow the very Government which had so generously opened its arms to receive him, and lifted him from the dust into the privileges of a citizen. I would take that instinct, and use it as a counterpoise against the crude, uninstructed element that comes to us from abroad. I do not fear that it will fall under the influence of the aristocratic class any more than it did during the war. The negro will be sure to look with jealousy and suspicion upon the task-master from whose arms he has been torn, and who will still continue to regard him as his rightful property. That aristocracy, moreover, landless as it is soon destined to be, under another and a better social system, is sure to be swallowed up ere long by the upheaval of the lower stratum, when labor, now become respectable, shall assert its rightful supremacy, and the strong sinews of toil shall reclaim their lost inheritance by seizing upon the soil.

But who are they that make this objection? Only the master himself and his northern friends. If they think so, however, why do they object? What harm can come to the lords from the maintenance of the patriarchal relation, by turning it into a bond of kinship and good offices that will rival the constitution of the Highland clan? But they do not think so. They affirmed with equal confidence that the negro would cleave to his master, and fight for him, if he would fight at all; but it turned out to be a mistake, as every man of common sense knew very well it would. If the power of the master had been equal to that of the northern demagogue, he might possibly have taken sides against the Government with the same unanimity as the imported Caucasian who was led as an ox to the shambles, and made, like a blind Samson, to lay his hands upon the pillars of our Constitution, in that dark hour when all the powers of earth and hell seemed leagued together for its destruction. The negro has already solved that question in a way that shames even the poor white man of the South, who is indeed obnoxious to this imputation, and from whose example it might have been plausibly inferred, but for the experience of this war, that he would have yielded to the same influences. But what authority is there for the assertion that the black man is more ignorant than the poor whites of the South who delight in shooting, or the imported patriots of the North who gratify their equally savage tastes by burning him? Look at the revelations of the census and see what they declare. I venture to say that, considering the difference of condition and opportunity, the black man is no way the inferior. It is sufficient, however, that he has proved intelligent enough to be loyal, when his highly educated master was not saved from treason by his superior instruction. But who shall

say that this loyalty was the fruit of ignorance? Not those, certainly, who prize the republican State, and think that knowledge is essential to its preservation. Its chief advantage is, perhaps, its felicitous adaptation to the general standard of humanity, in its extreme simplicity of form, and the fact that it requires so little of the learning of the schools to govern it. It would have perished in the recent trial, if it had been left to the wisdom of its statesmen. It was the uneducated common sense—the reasoning instinct only—of its own people, that saved it. God defend us from the statesmen and diplomatist whom this revolution has evolved!

But if the negro is ignorant, whose fault is it, and what is the remedy? Has he not been studiously denied the privilege which his white and jealous Democratic rival has so largely neglected, of learning even to read? And is the slave-owner, who is responsible for this, to meet us with the confession that he has purposely kept this man in darkness, because he feared that a spark might fall upon his intellect that would kindle into flame and melt his chains, and then convert his own inexpressible wrong into an argument against his freedom, and ask us to wait upon the education of the man who has just shown that he is better fitted for its enjoyment than himself? Thank Heaven! it does not require an education in the schools to make a man love liberty. The whole infernal system of black laws is founded on the dread of human instinct, and the fear that the natural struggles of humanity, if aided even by such feeble lights as might be accessible to him in his condition of servitude, would result in making him a freeman. They are themselves a pregnant confession that the slave is gifted with powers and susceptibilities that might be awakened into mischievous activity, and cultivated for the highest duties of citizenship in a free State. Whether the ignorance of the inferior class, either imported from abroad or thus diligently cultivated at home, ought to constitute a disqualification, it is perhaps too late to inquire, since the policy of the country, shaped and fashioned by the Democratic party, has settled it as a principle, that the right of self-government cannot be justly made to depend upon the education or intelligence of the voter. It may be right, for the twofold reason that the love of liberty is heaven-born, and the right to vote the best educator of the freeman. If gentlemen on the other side have come now to think differently, I have no objection to go back and trust the suffrage only to those who can read and write, and have been long enough among us to understand our institutions—to shake themselves loose from all foreign domination—to unlearn the Old World ideas in which they have been reared—and to appreciate the freedom which we enjoy. I cannot consent, however, that one rule shall be applied to the imported Celt, and another to the home-bred African. The right to freedom is not a question of either race or color, but the common inheritance of humanity. There are no aris-

toocracies in God's providence but that of understanding, which is not transmissible by descent, and is the appanage of no particular race or class of men. I do not mean to say—for I am no fanatic—that the negro race is, upon the whole, the equal of the white one in this particular, any more than I would affirm that any one white race is equal to any other, or that all the white races are equally fitted for the task of self-government. That is a proposition which no man can confidently affirm, in view of the past history and present condition of the world, but yet it involves no question as to the natural aspirations—which are only inspirations—of man for freedom, or his right to its enjoyment. If I am to choose, however, between these two elements, I would take the black man, upon the evidence of the last few years, and reject the equally ignorant white, who is so debauched as even to love slavery—who allows his very instincts to be smothered—and who submits his conscience and his understanding to a direction whose dominion rests upon the same profound and sagacious policy that has locked up the treasures of knowledge from the black man. Everybody must have been struck with the marvelous unanimity with which both these elements arranged themselves, though on opposite sides, in the late contest. When men begin to reason for themselves they are almost sure to differ. "Instinct," says Mr. Burke, "when under the guidance of reason is always right." If it was instinct, however, that led the black man in the one direction, it was something other than reason that herded his jealous rivals into one solid mass in the other.

But it has been objected in some quarters, that if the negro is endowed with the power of the ballot, he will, under the guidance of the same instinct, combine with his fellows to seize the governments of the rebel States into his own hands. This argument is the very opposite of the one which I have just examined, and while the other has only been invented as an apology for refusing the ballot by those who had no fears of the master's influence, has not perhaps been without its weight upon both the northern and the southern mind. Nobody can doubt that in this latitude at least, there is a morbid apprehension of what is called negro equality, but really means negro superiority: and it is perhaps not unnatural, that now that the negro has shown that he will fight, the men who flinched from that ordeal in the hour of our danger, or even those who have been driven like cattle into the armies of the oligarchy, should dread the comparison, and feel that there was nothing now but the denial of the ballot to prevent the black man from asserting his natural superiority over themselves. This apprehension supposes, however, a power of combination and forecast, without even the stimulus of oppression on his part, which is anything but consistent with the idea so studiously inculcated of his incorrigible inferiority, and surrenders all that has been affirmed by philosophers and divines in regard to his nor-

mal condition, while it admits that even the higher culture of the white man would give him no advantage in the contest. But in the few cases where the blacks are in a majority the difference in numbers is small. If it cannot be overcome by the superior training of the white man, then the ability of the negro and his consequent title to command, are established by the highest possible test. But in a quarrel of races what is to become of the mulatto? If the least perceptible infusion of negro blood, the very faintest suspicion of a twist in the hair, is sufficient to authorize us to deprive our unfortunate hybrid cousin of all participation in the Government, what assurance is there that the Caucasian flash will not prove equally fatal on the other side? History teaches us that this distinction is as likely to prevail as the other. But surely the chivalry, which has held in subordination by its superior address the turbulent but submissive Democracy of the North, would not shrink from the encounter in the same field with the despised and degraded African. But the idea of such a combination, as the result only of the most generous treatment, is the most extraordinary of paradoxes, if it does not deserve to be characterized as the wildest of chimeras. The people of the South will divide, as before, upon the policy of the Government, and struggle, as before, for the possession of its offices. Both sides, of course, will seek to propitiate the black man, because he has become a power in the State, and that one which will secure his confidence, and go farthest in its professions of regard for his interests, will be sure to secure the majority of his votes. If he be a child—as he perhaps in some sense truly is—he will be won by kindness, and ask nothing more than freedom of locomotion, protection to his person, and the means of enjoying, without molestation, the rewards of his own labor: Make it the interest of his late master to cultivate him. Give him a vote, and the “poor white trash” who despised him because he was a slave, will respect him because he is a sovereign. If it is necessary to educate him, because he is ignorant, give him an interest in the Government. It is the only school for the adult, and perhaps the best for all ages. The ripest thinkers of the times are agreed that it is a nursery of instruction that develops the man with wonderful rapidity, and it is this compensatory power that has perhaps served more than anything else to neutralize the evils of the prevailing system. To insist on a preliminary education is to begin at the wrong end. Leave him for instruction in the hands of his old master, and you offer a premium for the continuance of the old system, which kept him in ignorance of his rights and of his power. Knowledge will make him more formidable than ever. So long as he is kept under the State, and feels that he is no part of it, he is sure never to rise by this process. The men who control the Government will have the same interest in keeping him down as heretofore, reinforced as it will be by phantoms of terror that will haunt their pil-

lows, along with the new feeling of resentment and jealousy, which his compulsory enfranchisement has engendered. Cherish not the delusion that any good behavior on his part will ever secure for him an admission to the rights of citizenship. It is now or never. There is no ease, I think, in history, where a privileged class has ever surrendered its prerogatives to those that were beneath it. Indulge not the hope that you will ever make of him a contented subject. It is as impossible, with a people so numerous, to maintain an intermediate grade between the slave and citizen, as it is to establish an intermediate variety in nature, or an intermediate condition here between the State and Territory. The black man knows that he is free. If he asserts his right to meet his fellows in council for purposes which touch the interests of his race, either in this world or the next, the rumors of insurrection will load the atmosphere. The white man will restrain his liberty by biting statutes and relentless cruelty. The black man will rebel, and the result will be a chronic war, which will repel the emigrant, and end in the extermination of the weaker race. The groundless panic that pervaded the South so recently foreshadows the evil that is to come. Has the kindred policy of the British Government toward the Celtic Irishman succeeded in conciliating his affection for the English race or nation? If those who favor it here had taken the trouble to look into the causes of that exodus that is unpeopling his ancient home, and flooding our shores with its living tides, they would have discovered that there was something more than a war of races to explain the undying hatred with which the Irish exile looks upon the Saxon Englishman, and they would have found its solution in the very policy which it is now proposed to inaugurate in order to prevent a war of races in the South. It is unnecessary, however, to go so far. The recent bloody disturbances in the island of Jamaica are but a type of the social horrors which a mistaken deference to its prejudices is preparing for that deluded people.

But it is objected by the President that this is a question for the States under the Constitution, and that the concession of the elective franchise by himself to the freedmen of the South, must have been extended to all colored men wherever found, and so must have established a change of suffrage in the North as well as in the South, and would have been an assumption of power which nothing in the Constitution or laws of the United States would have warranted.

This argument assumes, in the first place, that the defaulting States are already in the Union, free from the penalties of crime, and with all their rights and privileges as intact as those of their loyal sisters. If this be true, it is not to be questioned that the right of fixing the qualifications of their own voters has been left, *sub modo*, with themselves. But how then, it will be naturally asked, did the President himself acquire the power of defining the qualifications

of the voters in the first instance? If he could do this—if he could either abridge or enlarge the privilege—and he could as well do one as the other—so, *à multo fortiori*, could the law-making power of this Government, in which the sovereignty resides. If he could do either, he might as well have conferred the privilege on the black man as on anybody else. But then he objects that this must have extended it to all the loyal States, as well as those that have rebelled, which is an assertion that his jurisdiction has attached, by virtue of the rebellion of the delinquents, to the States that are without sin. I am constrained to say that this is an argument which I have not been able to comprehend. Taking it, however, to be true, as claimed, it must have equally followed from his summary disfranchisement of the voters, whether loyal or disloyal, who might decline to take the oath to support all proclamations and laws having reference to the emancipation of the slave, that we of the loyal States were all disfranchised, too, unless we submitted to the same conditions.

Taking it, however, only in the milder sense of a suggestion, not uncommon in the South, that the loyal States which now deny the suffrage to the black man, would be either expected—to save their own consistency—or might be compelled by Congress to conform to the same rule, there is a word more to be said in the way of answer.

Whether these States could be regarded as strictly republican, with such a limitation of the elective franchise, if the necessities of the country or the protection of a numerous class of citizens required the presentation of the question to the consideration of Congress, is more than doubtful. The paucity of the blacks, however, in the northern States, where there is no disposition to oppress them, and their uniform enjoyment, without molestation, of every social and civil right, without the protection of the political privilege of the ballot, has made it a question of no practical importance to the country, and led to no formal complaint, although the overshadowing influence of the slave power has robbed them, in many of the States, of that privilege which the overthrow of slavery will sooner or later restore to them. Whether their inherent right as citizens to vote could be enforced by an appeal to the judicial tribunals of the country, upon the footing of the constitutional guaranty, is a question which I am not prepared to answer, and do not care to discuss. There is no issue now as to the loyal States, to demand the consideration of Congress. There is none pending as to their admission here. It is only the criminals that are at your bar—not asking pardon, but demanding to be restored to power. They went out to found a slave empire. They still think that God and nature intended the negro only for that condition. He counts by millions in the rebel States. He is a freeman now. His master is his enemy. He obviously intends to reenslave him if he can. He wants power to enable him to do it. The negro wants protection, and has earned the right

to it, if it was not his before. We want peace and security, if not indemnity for the past, and we are sure that they can be only secured by making these governments republican. They have placed themselves by their own act in a condition in which, by the confession of the President himself, it becomes our duty to execute the guaranties of the Constitution. When we shall have done this work, it will be time enough to enter upon another that will be purely voluntary; and if the reconstructed States shall insist, when they are in a condition to do so, that we shall deal with the negro ourselves, as we have compelled them to deal with him, I doubt not that the justice of the North, with its vision purged by the rising beams of universal liberty, will anticipate any action here, by undoing what nothing but a base servility to the perished feudalism of the South could ever have accomplished.

But why hurry the return of these States? Why undertake the hopeless and preposterous task of resorting not only to temptation, but compulsion, for the purpose of bringing about a reunion which can only subsist where it is spontaneous, and can rest securely on no other foundation than mutual respect and good will? It is a great problem, and a difficult one. Is there any immediate overshadowing necessity for their reappearance here? Is there any adequate inducement to indemnify us for the admitted risks we must incur from immature and ill-considered action? What would be thought of the sanity of the man in private life, who would insist on hurrying back to his embrace and confidence the unfaithful partner who had violated a sworn engagement of fidelity, purloined his goods, fired his dwelling, and murdered a part of its defenders; who instead of yielding had only been surrendered by his slaves, or overtaken and disarmed by the officers of justice, and had never even admitted his crime, or given one token of repentance? Is there not danger enough already in the rapid process of disbandment and surrender, that has been going on under our own eyes, to the terror of our only loyal friends, both white and black, in the South, without reference to the wishes or opinions of the people or their Representatives here, and in defiance of official information collected by the Government itself that the spirit which inaugurated and directed this hellish revolt was as rife as ever in the land, that we should insist on strewing palm-branches in their way, and inviting them to the honors of a triumph at the Capitol? The President admits that his policy "is attended with some risk," but excuses it by the suggestion that "it is a risk that must be taken." This, I humbly think, is a *non sequitur*. It was not necessary that he should have a policy, and a perilous one, or that we should take the risks that are admitted to be incidental to it. However it may be with the soldier, it is not out of "the nettle danger" that the statesman would "pluck the flower safety." He will take no risks if he can help it, and with only a rational treatment of this question, I think they are unnecessary here.

The people of the loyal States, who fought this battle, are now in the possession of the Government. They may—and if they are wise they will—take their own time to determine how they will readjust its machinery, and heal over the wounds that the war has made. It is in their power now to exact every possible security for the future.

Why, then, this inexplicable eagerness to surrender all the advantage of our victory without any security at all? Why insist that the overthrow of these rebels in the bloody arbitrament to which they have appealed, is to be only the signal for their restoration to their former estate? Is it necessary that we should constrain the reluctant condescension of these haughty masters, who so lately spurned us as slaves, to the renewal of the domination which they had come to loathe from a very feeling of satiety? Has the attempt improved or mollified them? General Schurz is the witness, that the policy of not only pardoning, but inviting the traitors themselves to reconstruct their States, has had the worst possible effect upon them. And it was but natural that it should. If they do not despise us for our weakness and our voluntary self-abasement, they will be at least prepared to conclude that they are more necessary to us than we are to them. They were not long out themselves, before they began to yearn for the scion of some royal house beyond the seas. Shall we furnish them reason to think that we are pining for the return of our natural lords, along with our Democratic brethren, who have been wandering like sheep without a shepherd, and lamenting the desolation of the Capitol with more than the tenderness of the Moor, who wept the exile of the last of the Abencerrages under the deserted towers of the Alhambra? What reason, beyond their mere repugnance to the association with the northern mudsills, will they have to lament their failure in the battlefield, when they are once more reinstated in their original dominion here? Are these the means by which a statesman expects to improve the lessons of the war? If kindness and submission could have won their hearts, they never would have left us. Is anybody weak enough now to think that they are so chastened and humbled by defeat, that a restoration to power, instead of intoxicating, would only disarm them? That would not be in accordance with human nature or historical example. Did the catastrophe of Charles I result in any improvement of the family? Their restoration was but the prelude to another revolution that drove them from the throne. It is the same blind confidence in the reformation of these men that is now menacing this Government with ruin.

But is there any evidence that they are changed, or that they are yet in a proper frame of mind to come back, and perform faithfully their duties here? We all know better. The special commissioner of the Executive says not, and his testimony is supported by all the presumptions in the case. It would be unreasonable to look for anything else. They are but

men, like ourselves. Alienated in affection by a systematic education of thirty years, they went out with the determination never to return. The Southern heart went with them. Inflated with pride and vainglory, they threw down the gauntlet of battle, and defied us in the presence of a world that sympathized with them. We took it up, and they are at our feet, deeply wounded in their most sensitive point, smarting under the humiliation of a defeat at the hands of their own slaves, and realizing more than the bitterness of death in the depth of their fall, and the painful recollections that it suggests. How unreasonable to expect that hatred, the deepest and most undying—doubly intensified by such humiliations—could be converted into love by such a process, and the lessons of a generation unlearned in the twinkling of an eye! But they do not even affect it: and I am rather inclined to respect the pride that, under the greatest of temptations, has prevented them from condescending to the meanness of the hypocrite. They confess that they are subdued, but only, as they tell us, by the power of numbers—the mere brute superiority of the North. They do not profess contrition for their great crime. They do not even admit that they have sinned. Nay, they glory in the act, treat fidelity to their infamous confederacy as the most heroic of virtues, award public honors under the very Government that has crushed them—and which that Government ratifies, in recompense for treason against it, and visit the social ban, if not the bullet or the knife, upon such of their people as have fought valiantly in its defense. It is but reasonable, I say, that, coming as they do, out of the fires of the rebellion, they should feel thus. But that they should act thus under our own eye, is evidence either that they do not wish to return, or that the dejection that followed their defeat, has given place to the assurance, that they are not only to be pardoned their offense, but to return as conquerors. Their leaders certainly do desire to get back again, because they are overthrown in battle, and it is but to exchange the place of a subject for that of a ruler, or at least an equal. To accomplish this, they would have been glad to ransom their lives and property for the cheap consideration of negro suffrage. They expected probably no terms more favorable. The lenity of the Government has assured them that treason is no crime, and that there is to be no atonement for the past. The tone of the proclamations and the tenor of the diplomatic negotiations have taught them that nothing was expected or desired by the President but the recognition of the freedom of the slave, and the repudiation of the debt incurred in carrying on the war, and that there was to be no other security for the future. The outgivings of public functionaries have instructed them that they were wrong in claiming the rights of belligerents, and that they have a right to resume their places here upon such conditions as they can make with the Executive. They care nothing about you or your laws. They look only to the

Chief Magistrate, while they defy the opinions of your constituents, and regard you only as the mere executors of his will. There is a Providence in these manifestations that warns us of our danger, if we would give heed to it. Ignoring them, we shall not have even the poor apology of saying that we were deceived in a case where even the largest professions—if they had vouchsafed to make them, as they have not—ought not to have been allowed to put us off our guard. I know that confidence is a generous plant, and that there are natures so unsophisticated as to be above suspicion or distrust. There are men certainly whose boundless charity would not only forgive offenses, however frequently repeated, but even persuade them to give their faith anew to those who have dealt treacherously with them—as these men have with us—while they would reject the counsels of the wise and prudent, on the ground that their suspicions were ungenerous, and the results apprehended by them improbable. These men may be good Christians, but they are poor statesmen, and they misconstrue the spirit of the Christian maxim which teaches forgiveness, if they suppose that it inculcates trust. The thing that has once happened may happen again. It is not sufficient that it is improbable. It is the business of the statesman to see that it is made impossible. No blind confidence—no false sense of security on his own part—will excuse him for hazarding the peace and welfare of a nation, by giving his trust a second time where it has once been disastrously betrayed. He has no right to sport in this way with the life of a people. He cannot afford to be thus generous with other people's goods. It is not enough to tell us that the present Executive of this nation—with a strong feeling, of course, for the desolation of the South—is magnanimous enough to forgive, and generous enough to confide in the honor and loyalty of his old neighbors and associates in council, although they have so cruelly persecuted him—as they will do again as soon as the opportunity occurs. The twenty millions of the loyal States who have seen so little good come out of that Nazareth, must have something surer to rest upon than his oblivious charity. I think otherwise, and so do my constituents. I have great respect for his opinions, but the facts and the presumptions are all against him, and I must be governed by them. If we are wrong, the error may be corrected hereafter. If he is wrong, it is irremediable. True wisdom demands that we should "make assurance doubly sure, and take a bond of fate," while there is yet time to do it, by providing against all possible contingencies, where the interests involved are so vast and incalculable. If the terms seem harsh, that is the fault of those who are precipitating the solution. A reasonable probation would enable us to make them easier. I would rather, for my own part, trust to the mellowing influences of time. If you desire a remission that will be permanent and real, you must wait till their hearts are changed—wait until the bitterness of

defeat is past, and until they are prepared to confess their errors, and ask forgiveness, and restoration, in the spirit of the returning prodigal. Without repentance forgiveness is idle, and restoration worse. Philosophy and religion alike approve the soundness of this doctrine. You cannot accomplish a task of this sort by any forcing process. No wise Government would think of it. No sound or judicious statesman would advise it. If they cannot come back now in the right spirit, and will not come with such securities as we have a right to demand, it were better they should not come at all. I would hold them as they are—and with black troops too—until their territories are peopled by men who will recognize the value of the Union—ay, hold them forever, if necessary, as subject provinces. But it will not be necessary. They will be glad to return in a very few years, on just such conditions as you may impose, and will be grateful for the privilege. Admit them now, and withdraw your armies, and you leave your few white friends, and your multitudinous black ones, to an ostracism as merciless as the bloody proscription upon which they can no longer venture with safety. They tell you so themselves. While the President informs you that these States, or some of them, are ready to return—in the face of the admitted fact that their people, in almost every instance, have refused to ratify even the advantageous bargain made with him by their leaders, by sending loyal men to represent them here—every breeze from the South is laden with the earnest remonstrances of the loyal people of those States, telling you that the withdrawal of your power will be the signal for their flight and exile from their homes, and altars, from the graves of their kindred, and their household gods, and beseeching you, in piteous accents of despair and agony, not to abandon them to their remorseless enemies.

But before they do come in—whether by the door or window—there are duties to be performed to others, dangers against which we must provide, arising out of the obligations of the war that these men have forced upon us. We have incurred an enormous debt that is mainly owing to our own people. We must provide for the payment of its interest, as well as the redemption of all the pledges we have made to the disabled soldier, and to the widows and orphans of those who have perished in the field. Is it expected that these men will assist us in redeeming these obligations, that some persons are so anxious to associate them with us in the performance of this work of justice and mercy? Do you propose to summon these great criminals here, and translate them from the dock to the bench, as joint assessors with yourselves, and those who have poured out their money or their blood in ocean streams in bringing them to justice, in the resettlement of the nation, in perfecting its securities, and in fulfilling the obligations you have incurred to the public creditor, and to the families of those brave men who have gone down to death upon so many southern battle-fields?

Will you insist that they shall come into council with you on such a question as this? The ordeal would be too severe. They have denounced the war as not only unrighteous, but unlawful; and they are not alone in this particular. It is not the rebels militant only—the men who so cheerfully staked their lives on their opinions—who think so. Their old associates in the North, who want them back on the terms of the President, have taught their followers here upon the same argument, that the public securities were worthless, and would be repudiated. Is there no risk of a new coalition on this basis? I venture to predict that the next phase of the reunited Democracy of the North and South, (for it will be a reunion of the party and not of the States,) will be opposition to the payment of this debt. It may not discover itself at once in the shape of absolute repudiation in the North, but this new alliance will find other means, not less effective, to accomplish its work. The South, with all its prejudices and pride, would rather consent even to negro suffrage, than allow itself to be taxed for such a purpose, and you cannot compel it, without the aid of the black man. The North will insist, at least, on scaling your securities down by the actual money value in the world's market of the paper that was invested in them. It will damage your credit by quarreling with your schemes of revenue. Knowing that taxation is always unpopular, and particularly among a people so unused to it as ourselves, it will at least flatter and delude the multitude with illusory promises of relief, and with the aid of a united South, will, at the next turn of the cards, win its way back to power, and enter once more upon the possession of the Government.

But the mischief will not end here. There is another debt that numbers cannot compute, incurred in the baffled attempt to overthrow this Union, and diffused throughout the entire South. There is, besides, a claim yet dormant for the value of the slaves made free by the proclamation. It may seem to some extravagant to talk of these, but it is no more extravagant than many other things that we have witnessed, and among them the assertion of a right to return to these Halls as though they had not sinned, and the presumptuous arrogance that has already taken our Constitution in charge, and undertaken to arraign our acts of self-defense against their treason, as violations of that instrument. Admit these men—ignore their crimes by your votes here—give them your confidence and the eventual mastery—as before, and your public credit will deservedly receive a shock that will tumble it into ruins. Re-admit them here, and every prudent man will endeavor to get rid of your securities. No sharp-sighted money-lender will trust a Government so administered. It will be in vain for you to profess in joint resolutions, that you do not intend to pay any of the debt of the dead confederacy, or of the claims of the living slaveholder. The world will not believe it. It will say you mock it, when the makers of that debt,

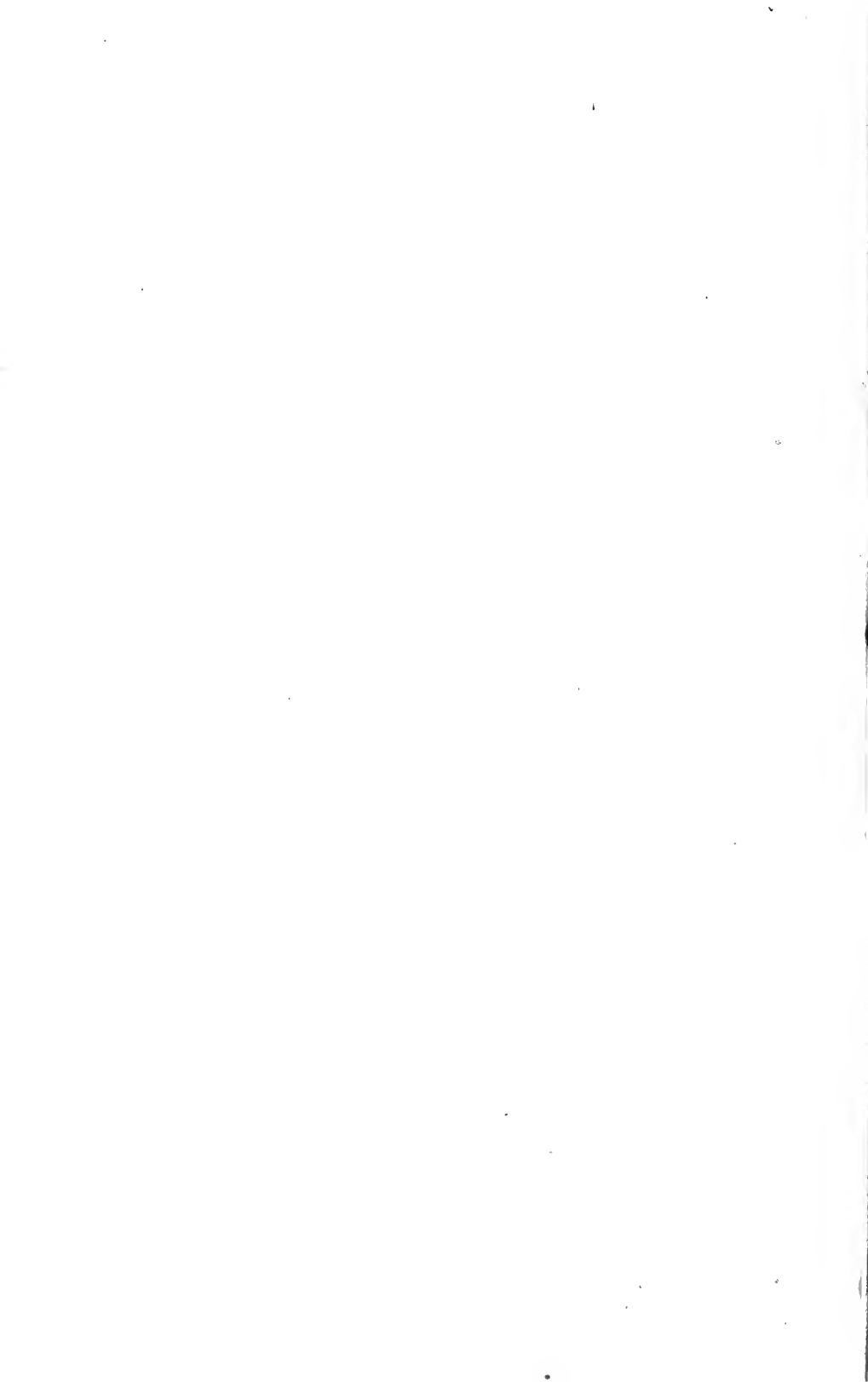
and the disloyal slaveholder himself, shall be exalted by your votes into legislators, to coöperate with the party here that has decried your obligations, and declared them to be worthless. The assumption by you of the one, and the payment of the other, would be but a logical sequence. If the makers of that debt are decided to be worthy of honor and trust in this Government, it will be an estoppel against the assertion that there was anything essentially immoral in hiring assassins to take our lives, or anything in reason to prevent the payment of the wages of their iniquity. It will be taken for granted that when you make a legislator of the criminal, you intend to pay his debts of honor at home. You may protest that you do not, but it will point you to these acts, and scoff—ay, it will scoff—at your empty protestations, as no more than sounding brass and tinkling cymbals.

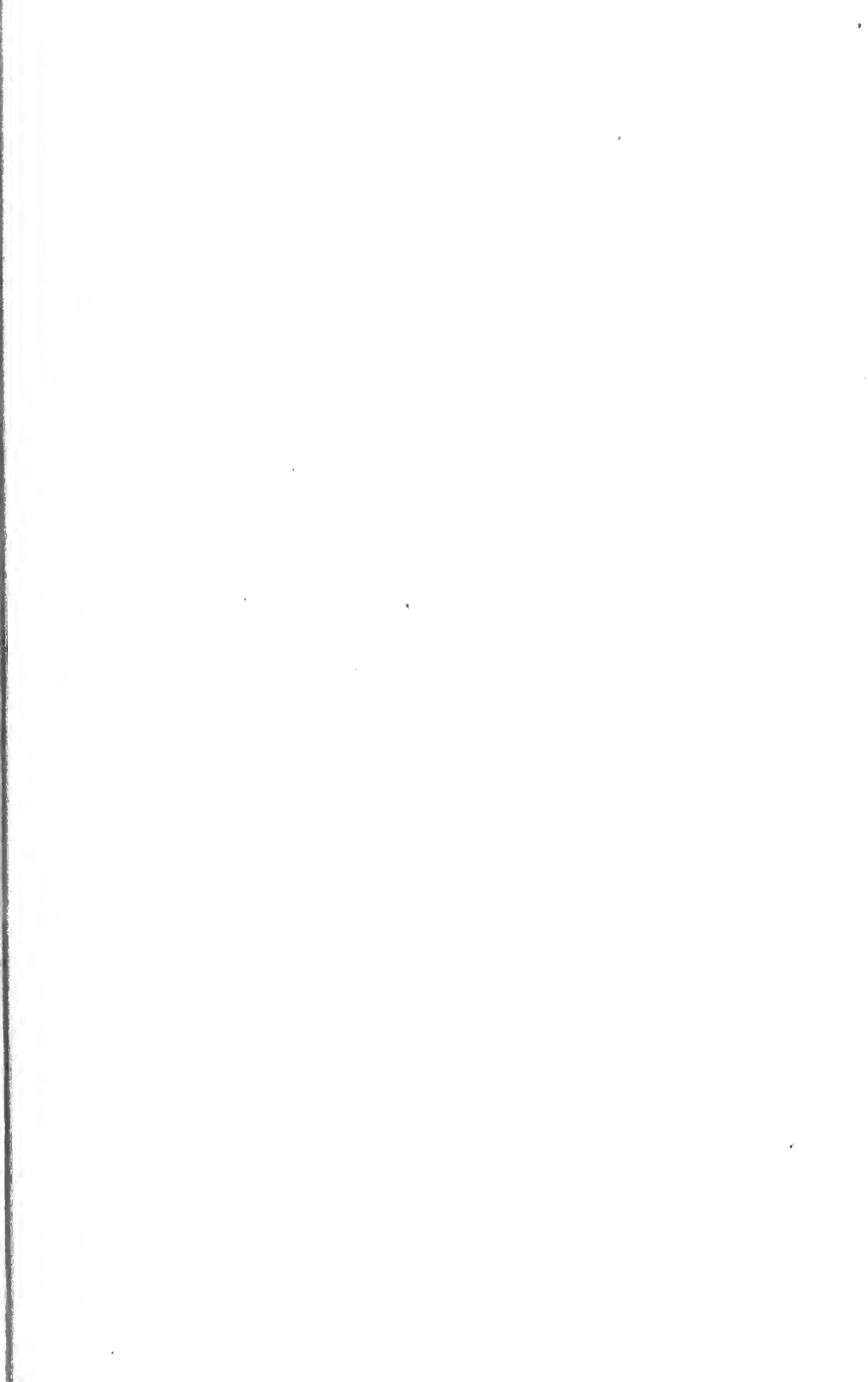
But before I have done, allow me to come back once more to the great conflict of power—the gigantic and overshadowing issue—which has been forced on us and on the country, by the process of restoration which it has pleased the President in the exercise of his own judgment to adopt. There are other considerations that demand our care beyond the mere rehabilitation of the conquered States. It is for us to see that, in the execution of the guaranty, the Federal Republic itself shall receive no detriment, and undergo no change. There are symptoms, unquestionably of an alarming nature—developed, of course, by the high stimulus under which it has just been working—that forebode a serious disturbance of its balances—a revolution equivalent to a change in its organic structure, if not watched narrowly before it is too late. The time has now come to check those tendencies, which a condition so unnatural has so largely encouraged. With a Union newly and doubly imperiled by a policy that, ignoring the sentiment of the loyal States, has thrust us an immeasurable distance back from the position which we occupied when the camp-fires of our legions were blazing along the heights of the Appomattox, by not only leaving treason and murder to go unpunished, but warming the former into life and hope and strength, by withdrawing our troops, and endowing it with the power of reorganizing its broken columns for a fresh assault, and with the great problem, of the restoration of its dissevered members complicated with another and perhaps a greater, in the tremendous question whether all these heterogeneous elements are to be flung into the crucible, and fused down under the fierce flames of war into an elective monarchy, it seems to me, with all due respect to the President, that we have reached a crisis in our affairs, when it behooves the people to look to their securities, and their Representatives here to resume the government of this nation, and to say to the advancing tide “thus far and no further.”

Standing, as I do, upon the traditions of the fathers—upon the radical but conservative maxims of republican liberty—upon the great prin-

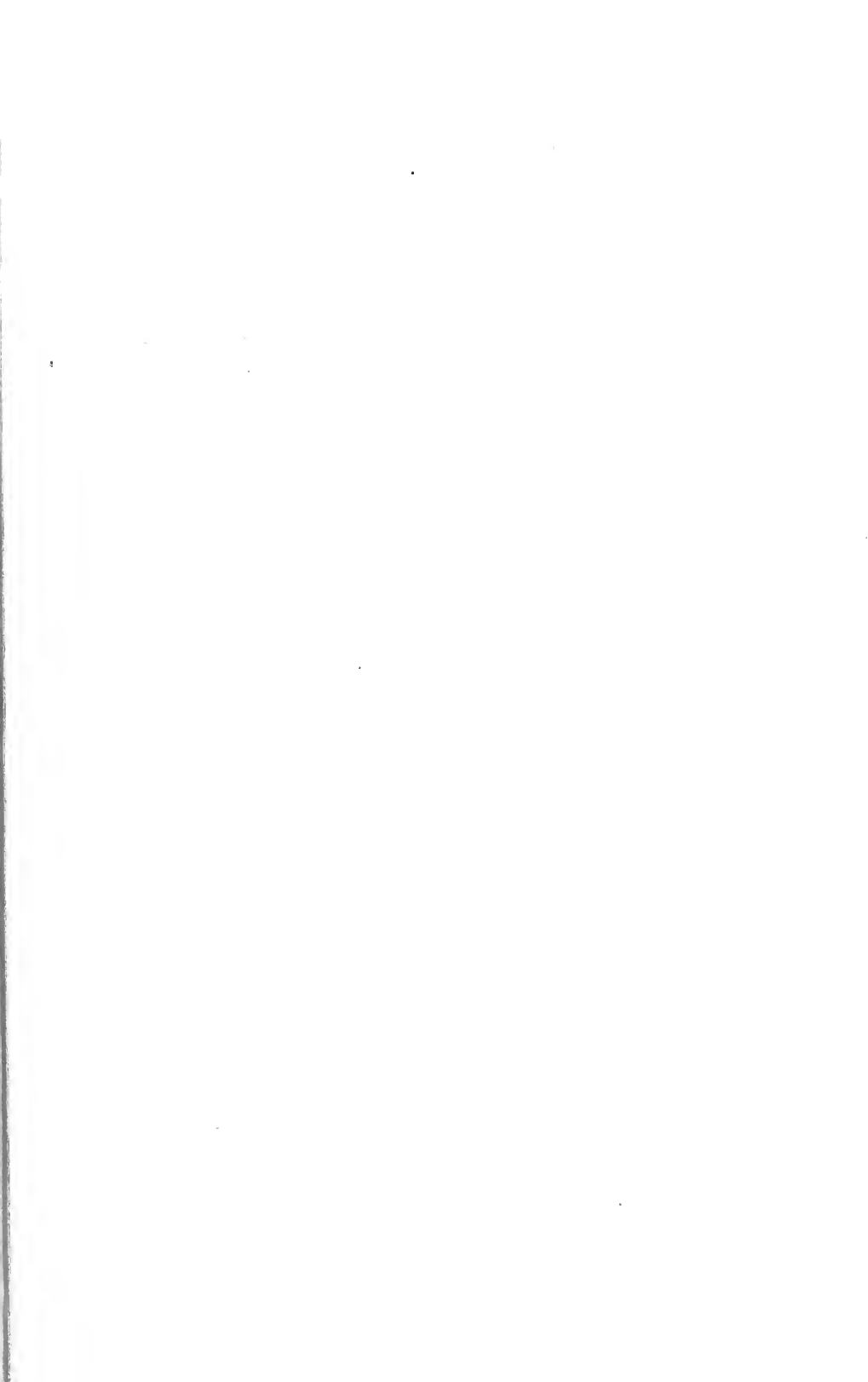
ciples that have been consecrated by the struggles of more than two hundred years—I cannot but tremble for my country when, in addition to all this, I hear the national Representatives instructed by other than their lawful masters in regard to their duties here: when I find myself semi-officially advised by the executive head of the nation, who has just been thanked by a rebel Legislature for the act, that amendments to its fundamental law, proposed by its delegates here for its security, are unnecessary, or inadmissible, or entitled to no more respect than the resolutions of a town meeting, while bills that have passed this House, and are now actually depending in the Senate, are made the subject of public discourse and animadversion at the other end of the Avenue; when I hear a high officer of that department confessing and justifying the exercise of a *dispensing* power over our laws, in the employment of traitors, and the payment to them of moneys wrung from the sweat of the toiling millions of the loyal North; when I see members of both these Houses ready and anxious at such a time to abdicate their rightful powers—as a Legislature, not by a harmless reference to a committee of their own bodies—but by championing their own disability, and flinging down their crowns at the footstool of executive power; when I hear on this floor, from men who opposed the war throughout, and now, by a logic which I do not question, support the policy that gives the victory to the enemy, the appeal of the people to their own Congress compared to the howls of a drunken populace at the doors of the revolutionary Assembly of France, that in the name of liberty flooded its capital with blood, and in the name of religion dethroned the monarch of the world: when I read in newspapers controlled by gentlemen of this House who have discovered no sensibility to attacks upon its own privileges, the mere assertion of a right on its part to express an opinion in regard to the disposition of our troops, with no organized enemy in the field, denounced as an invasion of the prerogative; when I hear even the suggestion of the nation's sentiment in regard to the appropriate doom of the traitor chiefs, who now stand impeached before the world of a connivance in the starvation of our soldiers, and the butchery of our President, reproated in the same way by public journals in the confidence of the Government; and when, to crown all, my very vision is blasted by appeals to the Executive from the disloyal papers of the North, to employ that patronage which the loyal people have alone

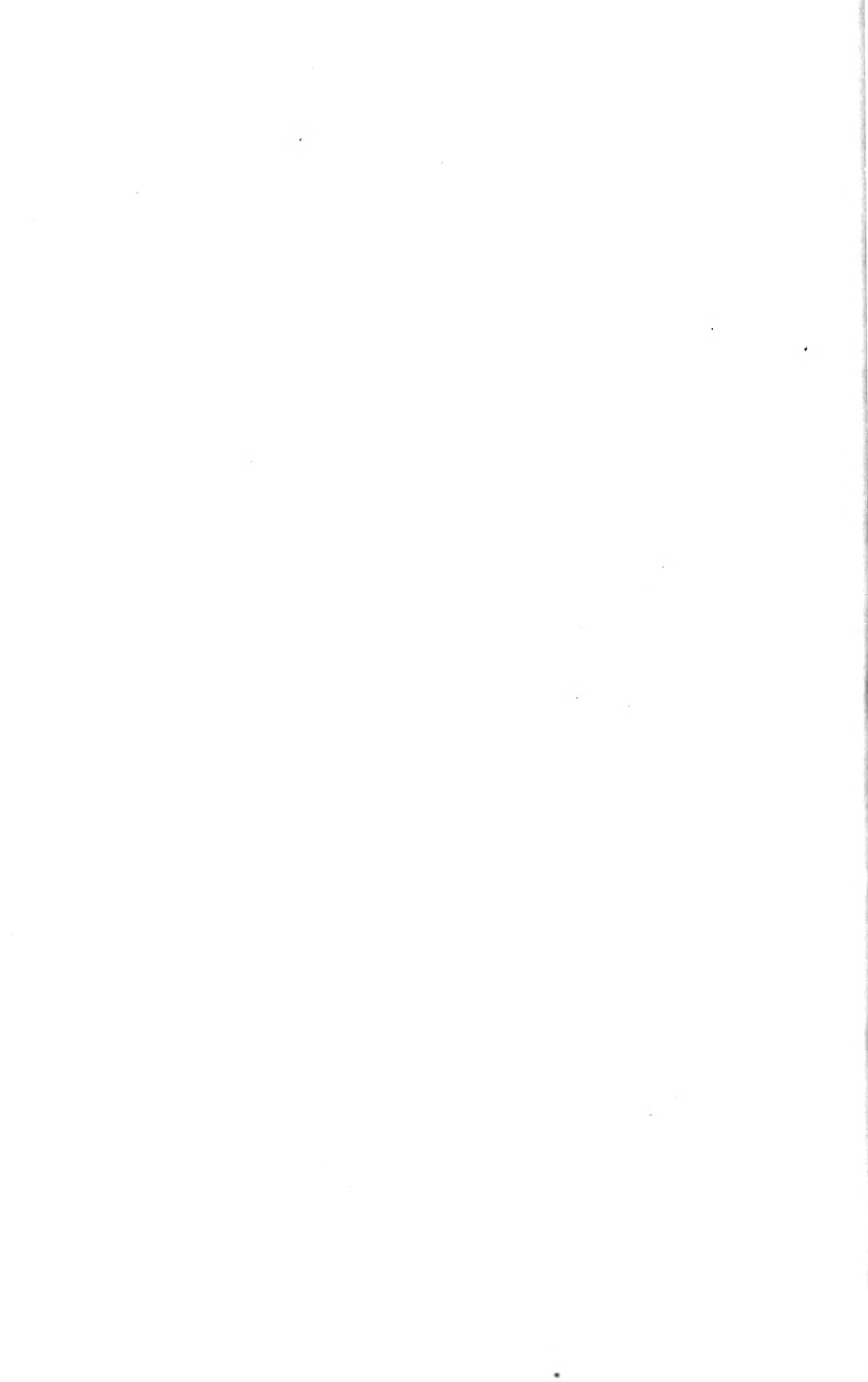
bestowed on him, to coerce their Representatives into submission to his views, and, failing that, to enact the *role* of another Cromwell or Napoleon in this Capitol, while an answering shout comes back upon the southern breeze, that the bayonets of the soldiery, who flung that despotism to the earth must be invoked to reinstate it here. I think I am no alarmist. I am not apt to indulge in gloomy auguries in regard to the future of a nation that has outlived so many blunders, and been so often ransomed by an Almighty arm. The proverbial honors of a prophet of evil have no attractions for me. Poesy has told us the story of Cassandra. History has vouchsafed to hand down to us the name and fate of the madman who ran up and down the streets of Jerusalem crying "Woe! woe!" while the armies of Titus were encamped about its walls. But if I stood alone on this floor, and it were my last utterance, holding the high trust which God has given me, with a nation in travail, and in view of the dark portents that cloud the horizon, and shake the very atmosphere around us, I would say to the people, "Awake from your false security, or prepare yourselves for another holocaust. Your enemy still lives. His 'impaired vitality' has been restored. Red-handed treason rears its head as proudly and defiantly and insultingly as before. It menaces your capital. It claims to dictate to your President. It presumes to use the very organs of your Government to denounce your attitude as a revolutionary one, and to arraign your servants here as though they were in rebellion against the South. It moves upon the citadel where your defenders are intrenched. See that no warder sleeps, no port is left unguarded. Look to it that no sentinel unbars your gates. Steel the hearts of your defenders against the weakness that would betray like treason. See that their mail is proof—no joint agape, no rivet out of place. See that no Trojan horse, filled with armed men—no Tennessee with fair outside, but big with 'pestilence and war'—shall win its way within your walls. When these great criminals do return, if ever, let it be only through the door that you shall indicate, and with such infrangible and irreversible securities as you only have the right to demand." This is my position. Here I have taken my stand, and by the help of God I will maintain it to the end. Others may falter in the trial, but through me no right shall be abridged—no privilege surrendered—no single leaf plucked—no jewel torn from the crown of the representative body.

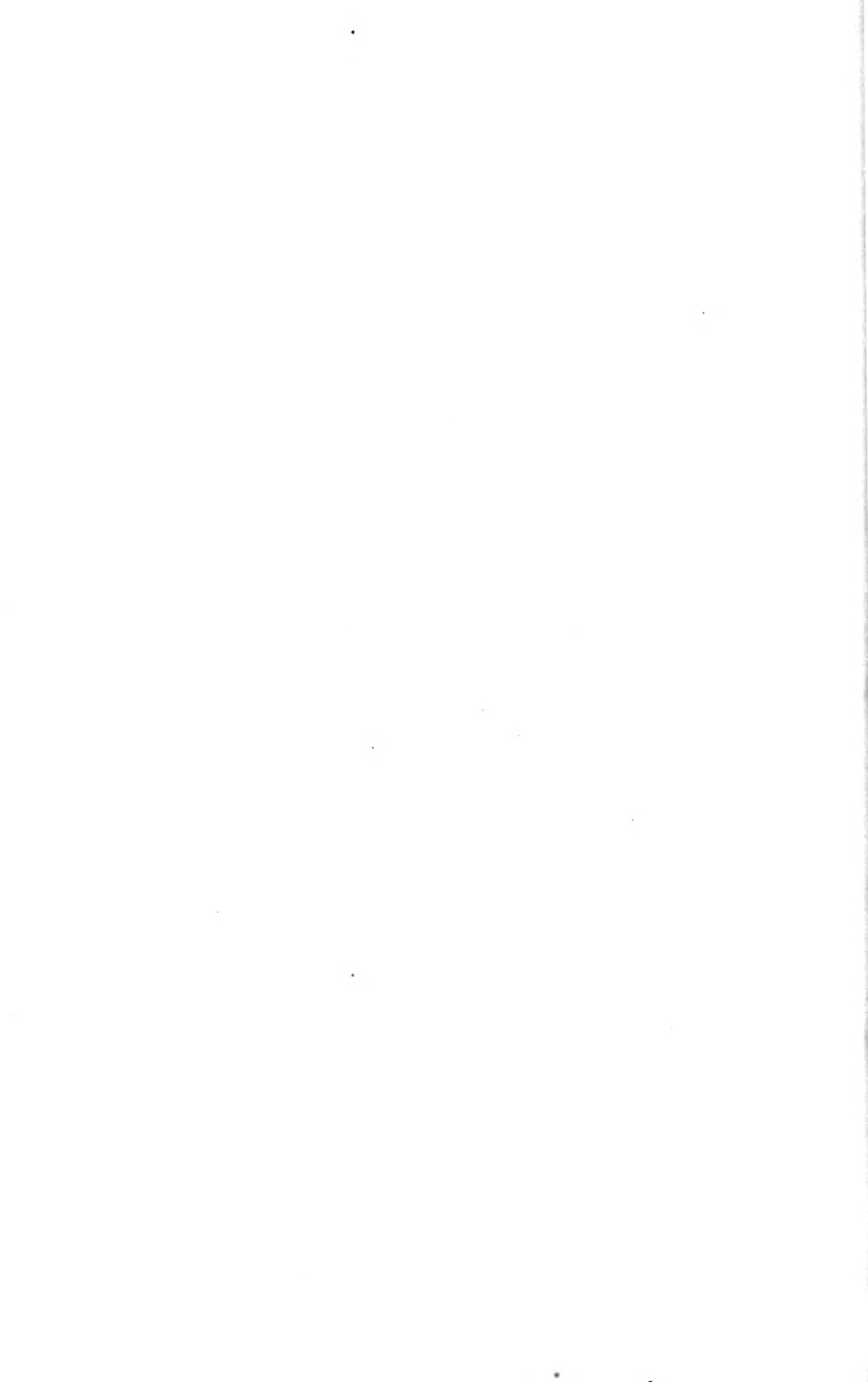


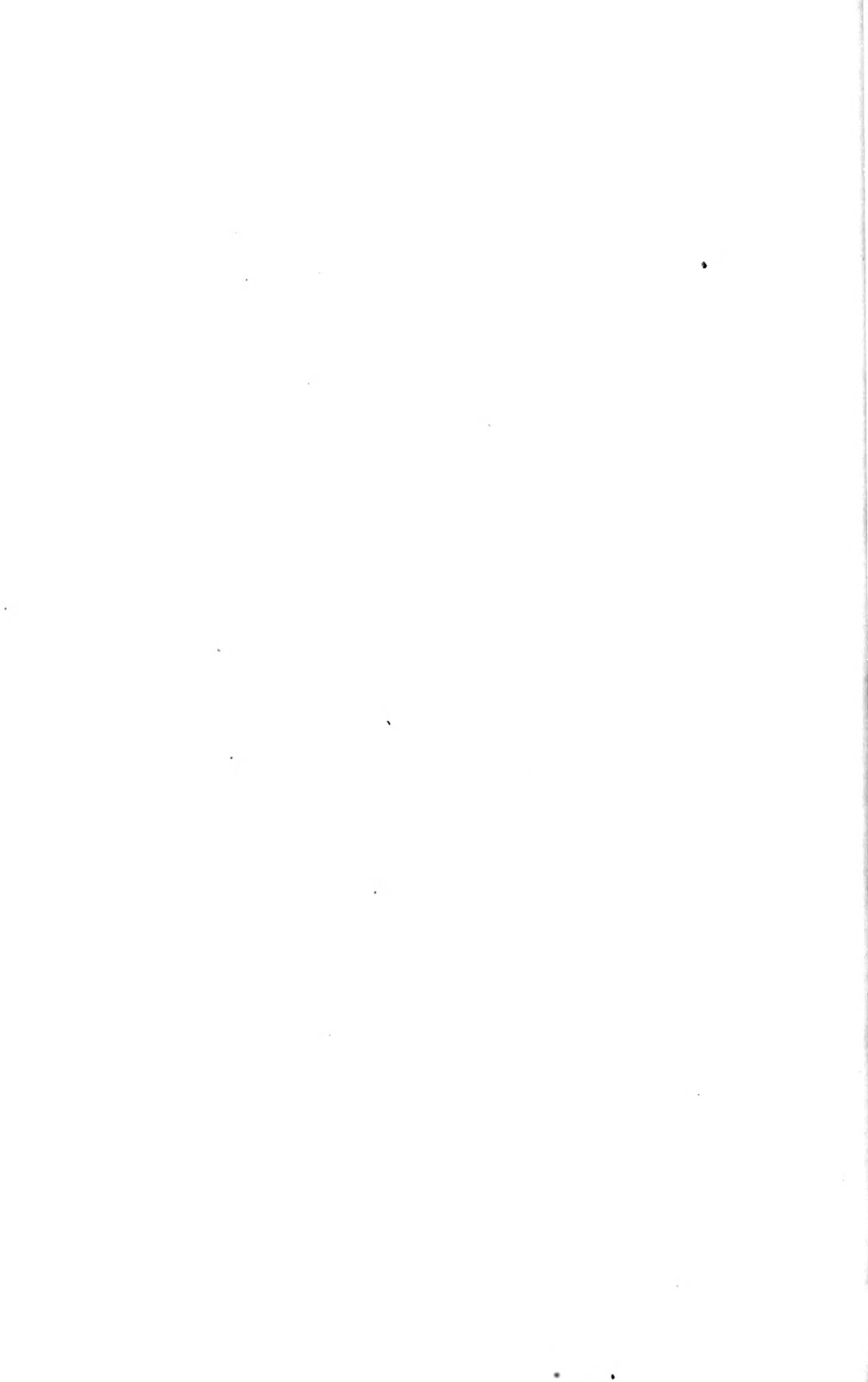












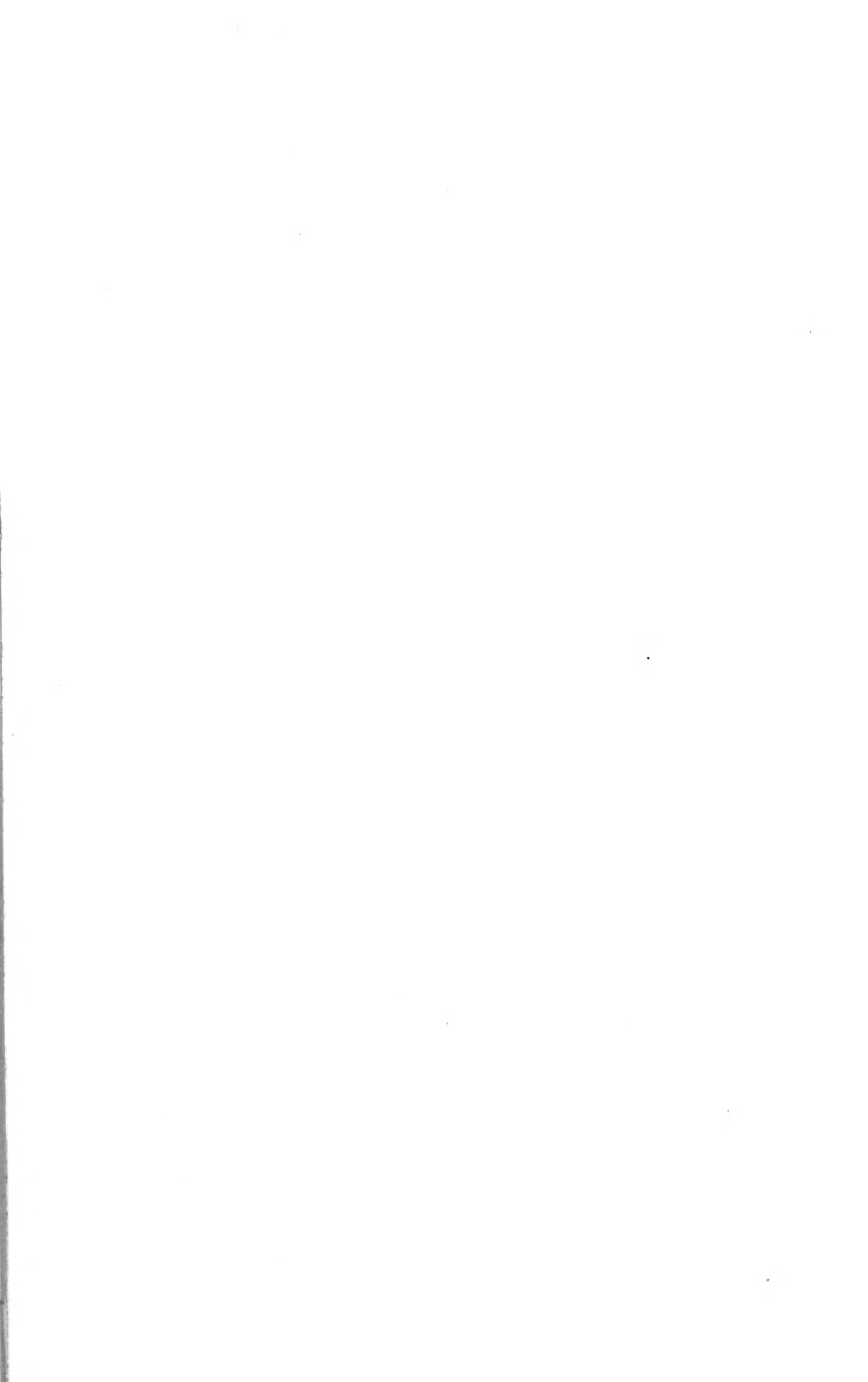


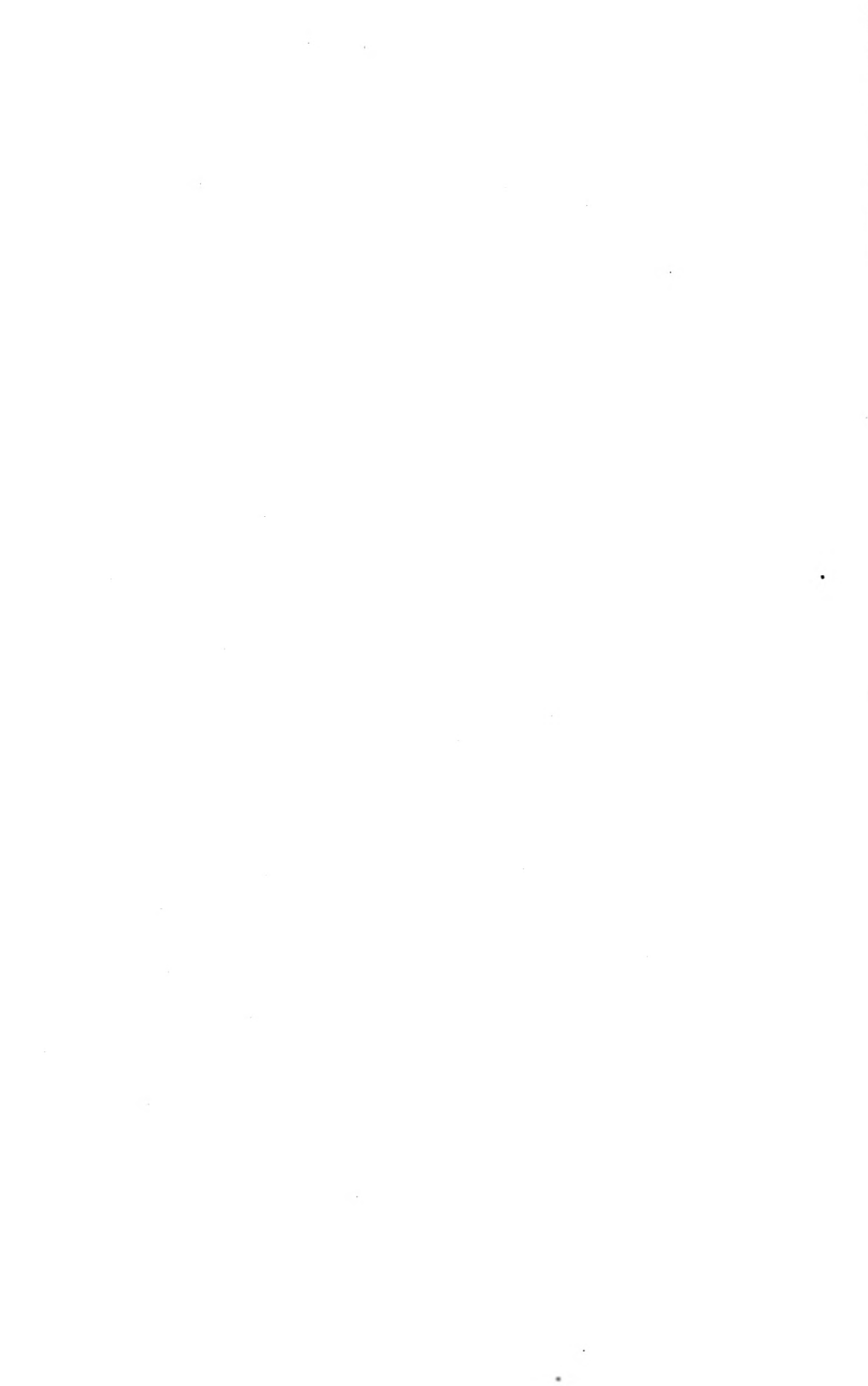


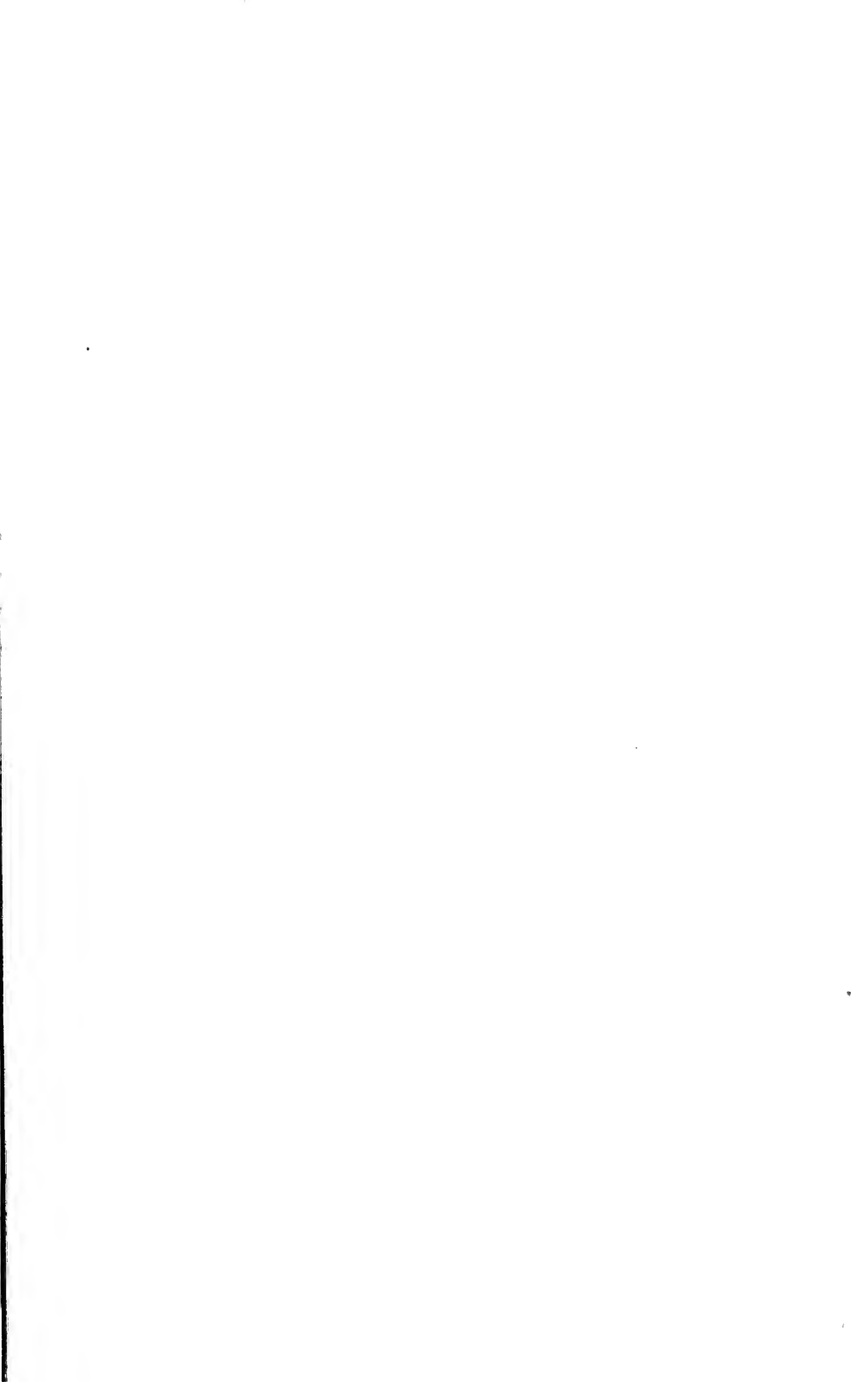




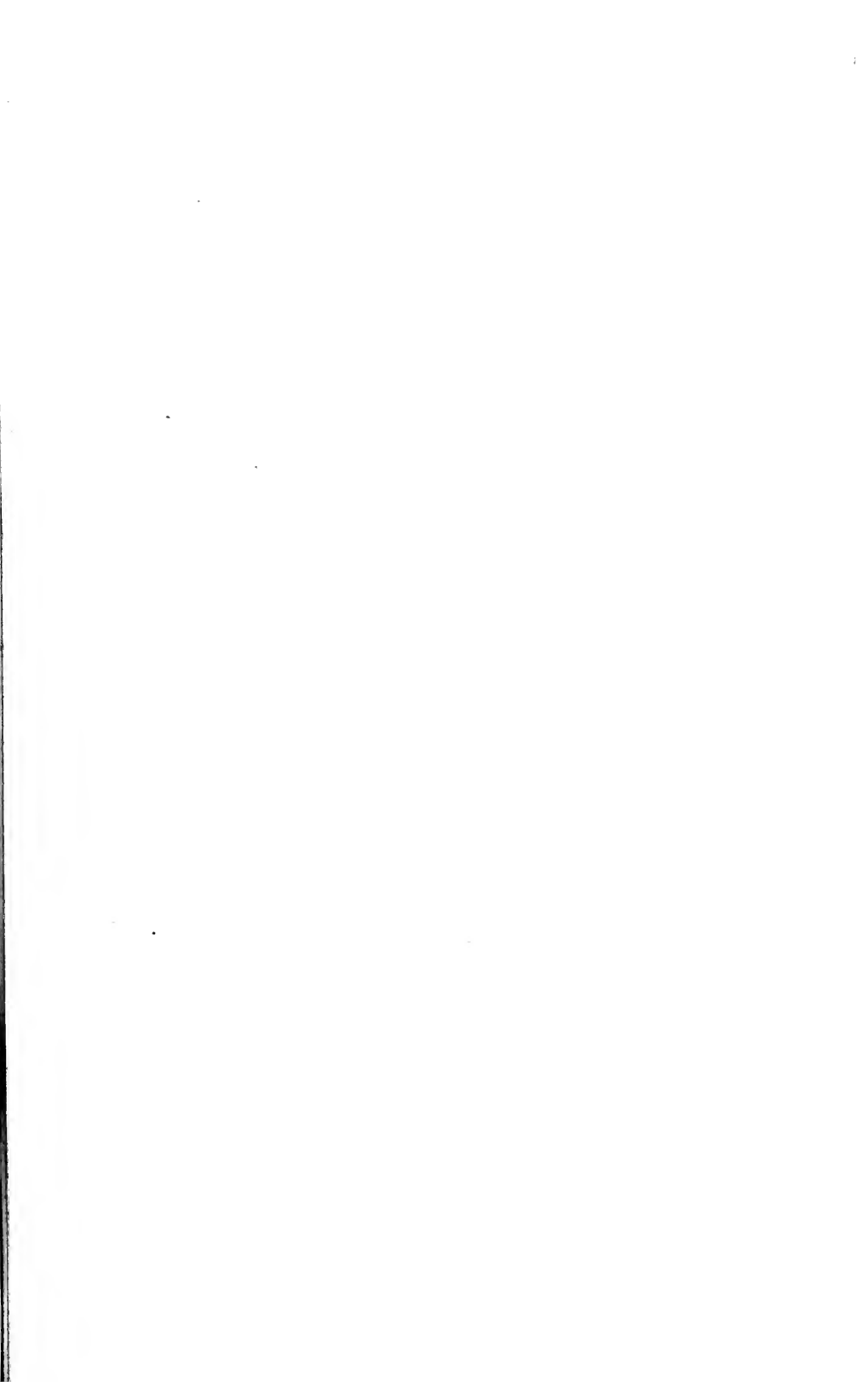












LIBRARY OF CONGRESS



0 013 786 514 2